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ABSTRACT

State regulation of public higher education in California is considered. California's Master Plan may be described as the state's major regulatory scheme for higher education, since it established the educational missions, admissions standards, and institutional growth limits in each public segment. Major regulations arising from the Donahoe Act of 1960 and from voluntary acceptance of Master Plan recommendations include: recognition of the University of California as having exclusive authority to offer graduate instruction in the various professions and as having sole authority to award the doctorate in all higher education fields; designating the University of California as the primary state-supported academic agency for research (the State University and Colleges were discouraged from undertaking a major university-level research program); and specifying the percentage of undergraduates at the University of California and the California State University and Colleges. An examination of the regulation of public higher education suggests that most state activity has been directed to segmental differentiation and fiscal control. It is held that state regulation has substantially intruded into areas such as curriculum, degree requirements, and personnel decisions. Examples are recent legislative mandates that degree credit be awarded for remedial English writing and that the layoff of faculty occur on the basis of reverse seniority rather than program need or faculty qualifications. (SW)

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ED184459

STATE GOVERNMENT REGULATION OF
HIGHER EDUCATION IN CALIFORNIA

A Report Prepared for the Sloan Commission on
Government and Higher Education

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Segmentation in California Higher Education

The Master Plan for Higher Education in California,[1] largely enacted into law in the Donahoe Act of 1960, was the watershed that marked the beginning of the modern period in the history of higher education in the state. The Master Plan recognized some preexisting higher education arrangements and provided in addition for future differentiation among the state's higher education segments. Three major restudies have not changed the Master Plan's underlying assumptions;[2] it can therefore be safely concluded that during the entire modern period, which has witnessed remarkable growth in state regulation of colleges and universities, higher education has mainly been structured by the Master Plan. The extent to which the Master Plan itself is both a form of and stimulus to state regulation of higher education is a question reserved for later discussion.

The Master Plan affirmed the existence of California's previous preexisting structure of higher education. In the public sector, it provided direction for the University of California, the State Colleges (later changed to The California State University and Colleges), and the community colleges. It also recognized the private sector by seating its representatives on a revised Coordinating Council for Higher Education. Private sector representation would later be expanded to include voices for private vocational, primarily proprietary, institutions and still later reduced to give public members predominance.

The Master Plan of 1960 did not, with one important exception, attempt to structure or regulate the state's private institutions. Yet the private sector is no small part of California's higher education system. In 1978 the California Postsecondary Education Commission estimated that there were approximately 265 degree-granting independent colleges and universities serving an estimated 185,000 students.[3] In addition, many nondegree institutions provide vocational or technical training; these range from in-service training programs in hospitals to proprietary schools for skilled blue collar workers. The one major exception to the Master Plan's laissez faire attitude toward private institutions was, of course, a student aid plan providing portable grants which redounded to the benefit of private as well as public institutions. The usual array of regulations has followed, and these are discussed in a separate paper. What must be emphasized for present purposes is that state financial aids to students have not been used as a lever for state intrusion into the governance structures, faculty personnel practices, or educational programs of private institutions.

In the Private Postsecondary Education Act of 1977, the Legislature finally imposed a system of licensing on private institutions. The Act does not bar private institutions from operating, but it does create four classes of degree-granting institutions which are certified by the Superintendent of Public Instruction. An exempted degree is awarded solely for instruction in the principles of a church or religious denomination; no state regulation, approval, or disclosure is involved in such cases. The Superintendent certifies an accredited degree by institutions which are accredited by national or regional accrediting agencies recognized by the United States Department of Health, Education, and Welfare, by the United States Office of Education, or by the California Committee of Bar Examiners.

An approved degree is issued only after the Superintendent has made an independent examination to assure that the institution has the facilities, faculty, financial resources, and other necessary capabilities to prepare a student for a professional, technological, or educational objective, which may include a degree, and that the institution's curriculum is consistent in quality with established institutions that offer the same program. An authorized degree may be conferred by an institution which annually files affidavits with the Superintendent disclosing in detail its objectives, curriculum, faculty qualifications, physical facilities, administrative personnel and apparatus, tuition and fees, scholastic regulations, degree requirements, and financial condition. The affidavits are reviewed, and authorization may be denied by the Superintendent if they are inaccurate.

The state's recent interest in private higher education has taken the form of certification rather than regulation. While there is some impetus for moving toward regulation, it does not now seem to command sufficient political support to produce further legislation. The remainder of this paper is concerned, therefore, almost exclusively with public higher education, where state government has prescribed extensive regulations.

The Master Plan itself may be described as California's major regulatory scheme for higher education. In its most important aspects, it established the educational missions, admissions standards, and institutional growth limits in each public segment. A summary of the major regulations arising from the Donahoe Act and from voluntary acceptance of Master Plan recommendations by the various segments is useful for our subsequent discussion.

1. Undergraduate Education. The University of California was authorized to continue its programs of traditional undergraduate education in the liberal arts and sciences and in the professions, including education. The State Colleges, which had once been Normal Schools and later Teacher Colleges, were recognized as having the primary function of providing "instruction for undergraduate students . . . in the liberal arts and sciences, in applied fields and in the professions, including the teaching profession." The community colleges, in turn, were authorized to offer instruction, which would not go beyond the "fourteenth grade level," in three major categories: standard college courses for transfer to institutions offering the bachelor's degree, vocational or technical fields, general or liberal arts courses not

leading to degrees. The associate in arts and associate in science degrees were within the authority of the community colleges.

2. Graduate Education. The University of California was recognized as having exclusive authority to offer graduate instruction in law, medicine, dentistry, veterinary medicine, and architecture. It was moreover vested with sole authority to award the doctorate in all fields of higher education. The State University and Colleges were authorized to conduct graduate education through the master's degree. And in a concession to their aspirations to become "universities," the Master Plan permitted them to participate in joint doctoral programs with the University of California. Later the State University and Colleges would gain the authority to participate in joint doctoral programs with private institutions. In fact, however, the State University and Colleges as they now exist have awarded only six to eight joint doctorates annually since 1972-73, and there is virtually no prospect for the expansion of this enterprise. As a generalization, therefore, it may be said that the State University and Colleges offer graduate instruction only through the master's degree.

3. Research. The University of California was designated to remain "the primary state-supported academic agency for research." The State University and Colleges, on the other hand, were discouraged

from undertaking a major university-level research program. The Master Plan authorized only "faculty research . . . to the extent that it is consistent with the primary function of the state colleges [i.e., undergraduate instruction and some programs at the master's level] and the facilities provided for that function." In subsequent years spokesmen for the University of California argued that the Master Plan limited research in the State Colleges to "instructionally-related research," a position which the Executive Legislature endorsed by refusing to provide separate appropriations or facilities for research.

4. Admissions. The University of California was limited to admitting lower division students who were among the top 12.5 percent of graduating high school students in California, and The State University and Colleges were limited to admitting students from the pool representing the top 33.3 percent of such students. These limits applied to institutions, not to students. Hence, a student in the top 12.5 percent could attend the University, a State University or College, or one of the community colleges, which were authorized to admit all high school graduates. Students completing lower division programs with suitable grade point averages were eligible to transfer to a segment for which they were not initially qualified; community college students could thus transfer either to the University or a State University or College, and State University and College students could transfer to the University.

In addition to these admissions regulations, the UC (University of California) and CSUC (California State University and Colleges) were authorized to admit an additional 2 percent of students (later revised to 4 percent) based on other criteria; this provision was aimed mainly at special admissions for minority and educationally disadvantaged students.

5. Student Body Composition. To heighten the differentiation of functions between the public segments, the Master Plan provided that not more than 40 percent of undergraduates in UC and in CSUC should be lower division students. This provision was, of course, intended to emphasize the special role of community colleges and to assure that adequate resources in the UC and CSUC systems would be devoted to their specialized functions. The Master Plan also suggested that some UC institutions with major graduate programs, such as Berkeley and UCLA, phase out lower division instruction entirely. This suggestion was apparently never taken seriously. Also, although institutions in the CSUC could elect to offer only upper division and graduate work and several were initially founded as upper division institutions, none selected ultimately to limit its educational program in this way.

6. Campus Size. The Master Plan Survey Team recommended that enrollment limits be established for campuses in each public segment.

These recommended limits, which have not been followed in either the CSUC or the community colleges, are shown in Table 1. The University of California has mainly stayed within the recommended FTE maxima on its two large campuses at Berkeley and Los Angeles. In several segments some campuses did not grow to the optimum size, and in a few cases campuses failed even to achieve the minimum populations recommended.

The Scope of California Higher Education

One of the strongest forces in the development of higher education in California has been the idea of "equality," a product in large measure of the state's frontier and Progressive traditions. In higher education, equality has come to mean access to an appropriate institution for each willing student. The dream of access for all has nowhere been as nearly realized. The California Postsecondary Education Commission has estimated that opening Fall enrollments in California universities and colleges exceeded 1.7 million in 1977.[4] The enrollment (persons, not FTE) by segments follows:

Community Colleges	1,120,520
California State University & Colleges	312,380
University of California	126,505
Other Public Institutions	3,193
Independent Colleges/Universities	185,000 (est.)
Total	1,747,598

The growth in higher education enrollments since adoption of the Master Plan has been genuinely impressive. While reliable long-term figures are not available for the independent colleges and universities, Table 2 shows that public segment enrollments measured by FTE grew from 242,417 in 1961-62 to 1,103,218 in 1977-78, an increase of 355 percent in sixteen years.

Early projections for 1978-79 indicate that enrollments have declined slightly in all segments. The period of growth may have come to its predicted end, and enrollment declines widely anticipated in the 1980's may already have begun.

Other short-term factors may also be at work. There has been a sharp enrollment decline in public service curricula--such as education and public administration; this may be a reaction to Proposition 13's expected impact on the public sector job market. Some observers have suggested that more than a few high school students were unable to enroll in college because the widespread closing of public school offices in the aftermath of Proposition 13 prevented them from submitting or completing college application materials. Similar dislocations in community college administration may have affected student transfers to the two university segments.

Even if short-term factors have contributed to the softening of enrollments in 1978-79, they have merely hastened the apparently inevitable decline. Falling enrollments are closely pertinent to the state regulation of higher education. Present state laws governing tenure and lay-off in the CSUC provide that the discharge of faculty must occur in reverse order of seniority within each teaching area. If enrollments shift among disciplines and simultaneously decline overall, university administrators will be forced to lay off faculty in declining disciplines both to conform to reduced budgets and to shift resources to programs with rising student enrollments. This is likely to bring an outcry from those concerned about faculty affirmative action because women and minority faculty are disproportionately among the newly hired. Students turned away from growing areas are likely to complain that resources are not being shifted rapidly enough to accommodate their demands for courses. And faculty organizations, which successfully sponsored the original legislation requiring that lay-off occur strictly by seniority, are likely to seek still new regulations to inhibit the discharge of faculty. The prospect is therefore high for sweeping new state government regulations of higher education.

Table 2 also shows the percentage of student enrollments occurring in each segment. The community colleges have increased their share of total public segment enrollments by slightly more than 20 percent since adoption of the Master Plan; the CSUC and the UC have each lost slightly more than 10 percent of total enrollments during that period. The accessibility of community colleges, the rich variety of their programs, and their superior modern facilities may suggest reasons for this trend. So do their low costs (they are tuition free) and their emphasis on adult nondegree education. But one additional factor was the Master Plan mandate that neither of the university systems should enroll more than 40 percent of their undergraduate students in the lower division. This has had a special impact on the University of California which only slowly and reluctantly accepted the 40 percent rule.

If declining enrollments produce funding reductions, the Master Plan regulation of student body mix will have adverse consequences on faculty tenure and security. The University segments may well seek relief from this limitation, inviting a renewed struggle about segmentation and state regulation of higher education in California.

The influence of the Master Plan on California higher education can also be observed in Table 3, which reports the degrees awarded by the respective segments. These figures emphasize the continued vitality of the private universities and colleges in California, especially in graduate and professional studies. They account for 50 percent of the doctorates and 49 percent of the master's degrees. They also confer 78.9 percent of the first professional degrees, a function largely of the recent proliferation of private, often proprietary, law schools in the major metropolitan centers. These data also show the differentiation between The California State University and Colleges and the University of California. In 1951-52, a decade before adoption of the Master Plan, the University awarded 54 percent of the 12,360 bachelors degrees conferred by the two systems.[5] In 1961-62, the CSUC awarded 66.3 percent of the 20,018 bachelor's degrees; and this pattern persisted during the ensuing fifteen years, with the CSUC awarding 66.9 percent of those degrees in 1976-77. The CSUC mission for undergraduate degree education has thus been fulfilled.

More surprising is the robustness of the of the CSUC's graduate program, which is limited to work at the master's level. In 1951-52, the University of California awarded 74 percent of the 1,671 master's degrees conferred by the two systems. In 1961-62, the University still awarded 51.1 percent of the two systems' 4,664 master's degrees; but after the CSUC had a clear Master Plan mandate for graduate training, its percentage of the 15,915 master's degrees awarded in 1976-77 rose to 62.5 percent. Enrollment and degree figures combined show that in public higher education, the community colleges have become primarily responsible for lower division education, the CSUC has assumed predominate responsibility for both bachelor's and master's work, and the UC retains full responsibility for doctoral and post-graduate professional education.

The dramatic increase in higher education enrollments has been followed by major increases in funding. In the decade from 1966-67 to 1976-77 (earlier figures for all segments are not as complete or comparable), total operating expenditures for the three public segments increased 344 percent, from $951 million to $4.226 billion. Enrollments during the same period increased 124 percent, demonstrating not only the effects of inflation but the enormous growth in the most costly education programs. State general fund support for the three segments rose from $482 million to $1.766 billion, a 267 percent increase. It should not be overlooked, however, that during this same decade state scholarship and loan funds provided hundreds of millions of dollars of additional, implicit support for public higher education and even larger sums for private institutions.

Table 4 displays the sources of funds for the three public segments in 1976-77. These data have substantial bearing on state efforts to regulate higher education. The most completely regulated system, as I shall indicate in subsequent sections of this paper, is The California State University and Colleges; it is also the only system which has been predominantly state financed, receiving almost 69 percent of its funds from the California treasury. The community colleges are predominantly local institutions, with local revenues (primarily property taxes) supplying 46.7 percent of their funds. Together with a strong tradition of home rule and a constitutional status as part of the public school system, this reliance on local revenues has been a symbolic as well as a fiscal barrier to state regulation.

Measured by funding sources, the University of California is more a federal university than a state institution. Its impressive support from endowment and gifts should also not be overlooked. The large amount of discretionary money available to the Regents together with the predominant funding of the University's research program by the federal government has been an important limitation on state government regulation. From time to time the University has foregone or threatened to forego state money subject to unacceptable conditions; it has been able to finance necessary programs from its own funds. Usually the threat to use discretionary funds to accomplish a state purpose has been sufficient; state officials have generally given way on proposed restrictions rather than abandon their obligation to finance important educational programs.

The University's federal and private funds are generally used for those activities most subject to criticism, while state funds are committed primarily to instruction. Hence, state government threats to cut state funding in order to reach other, more controversial University programs have a hollow ring; what state government can primarily cut is the instructional program to which state officials have traditionally been most strongly committed. The constitutional autonomy of the University, which protects its ability to shift its funds from program to program without legislative restriction, is an essential complement to its relatively large external funding in preserving its flexibility and independence.

Table 5 shows that the role of state support has been declining in all three public higher education segments. But the change has been greater in the University of California than in either of the other segments. The major factor in this change has been the availability of federal funds, especially research grants, and the University's competitive position for that support. A modest increase in private gifts and related sources has also occurred. The changing pattern of support for the University is easily portrayed:

Changing Sources of Support for The University of California

	1966-67	1976-77
State Support	47.8%	31.8%
Local Support	--	--
Federal Support	26.0	40.3
Student Fees	7.7	5.4
Other Sources	18.4	22.5
Total	99.9%	100.0%
	($509 mil.)	($2.193 bil.)

This pattern has developed at a fortuitous time for the University, for it has become more fiscally independent at a moment in history when demands for greater state regulation have increased. Moreover, scrutiny of its research program has recently become especially intense; and it is that program which is funded primarily from nonstate sources.

Before turning away from these financial data it is useful to raise several questions about the relationship of fiscal support to state regulation. It is easy enough to warn that "he who pays the piper calls the tune." That truth may be modified in California. The state pays a large portion of community college costs, yet we shall see that it calls very little of those colleges' tunes. It is unclear whether the existence of a more senior fiscal partner--i.e., local taxing sources--was the primary cause of state reticence.

Or was it California's strong tradition of home rule and the community colleges' historic affiliation with the constitutionally recognized public school system? This issue is soon to be tested. In the aftermath of Proposition 13 state support for community colleges rose dramatically--one state fiscal officer says to 80 percent of budgets--to offset the loss of property tax revenues. If the community colleges have now become fiscal dependents of the state in the order of magnitude of The California State University and Colleges, will state government now insist on imposing on them the same closely woven fabric of regulations found in the CSUC?

A quite different speculation asks whether Proposition 13 together with declining enrollments will break the state government's tendency to tightly control internal fiscal management. Certainly there will be political pressure from students and faculty not to cut programs or positions; yet conditions dictate such budget reductions. One strategy available to elected officials is to divert the political heat to higher education managers by giving them wide flexibility to manage their institutions on a reduced diet, allowing them to decide which programs and positions to cut and to suffer the corresponding political reprisals. This would have its greatest impact in the CSUC where fiscal regulations are most pervasive and where, moreover, budgets are driven almost completely by FTE and per capita enrollments.

It is useful to inquire, in addition, whether the remarkable growth in federal regulations, especially new regulations protecting disadvantaged groups (racial minorities, women, and the handicapped) and restricting the uses of research funds, will narrow the maneuvering room that the University of California has maintained in its role as a federal university. This would also affect the CSUC which in recent years has become somewhat more competitive for federal funds. (Its federal support has risen from $23.8 million in 1966-67 to $72.2 million in 1976-77, a 203 percent increase which slightly outdistances the 291 percent rate of increase in its overall budget.) The University of California has no special constitutional status under the U.S. Constitution, as it does under the California Constitution, and it must therefore conform to federal regulations or forego its major source of revenue. It is entirely possible that state fiscal regulations will begin to ease as budget cutting become necessary, but that federal regulations will simultaneously become more pervasive.

Structure and Governance In California Higher Education

The University of California. The University was chartered as a land-grant college in 1868; and in the Organic Act of that year a separate Board of Regents was established, modeled presumably on the constitutionally independent Regents of Michigan. But without wide constitutional authority, the University was subject to substantial regulation from the Legislature and to intervention arising from public concerns. The second president of the University, Daniel Coit Gilman, resigned with the complaint that "however well we may build up the University, its foundations are unstable, because dependent on legislative control and popular clamor." The status of the University provoked a major controversy in the constitutional convention of 1879; but when the new Constitution was finally enacted, the University had gained constitutional status.

Article 9, Section 9(a) provided for a Board of Regents and declared that the University "shall constitute a public trust, and its organization and government shall be perpetually continued in the form and character prescribed by the Organic Act [of 1868]." The Organic Act had vested the Regents with the "general government and superintendence of the University" and with "power . . . to enact laws for the government of the University." A constitutional amendment of 1918, whose legislative history indicates no intended diminution in the scope of the University's independence, has substituted for the reference to the Organic Act a provision delegating to the Regents "full powers of organization and government" of the University. The Constitution provides, moreover, that the University "shall be entirely independent of all political and sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs." This brief exegesis into California constitutional law is essential for an understanding of the relationship between state government and one major institution of public higher education. The extent to which constitutional independence has restrained state regulation in the past and, perhaps more important, will be an obstacle to such regulation in the future is discussed below.

The Board of Regents of the University of California numbers twenty-six members. Eighteen are named by the Governor, with confirmation by the State Senate, for twelve year terms. Before making appointments, the Governor is required to consult with a special advisory committee consisting of members representing the Legislature, the Regents, alumni, faculty, and students. A student Regent, named by the Board, serves a one year term. The President and Vice President of the University's alumni association serve ex officio. Also serving ex officio are the Governor, Lieutenant Governor, Speaker of the Assembly, Superintendent of Public Instruction, and President of the University. Until 1976, the terms of appointed Regents was eighteen years; a constitutional amendment, spurred by legislative concern to obtain a more responsive Board, reduced the term to its present length. This change and the role of elected officials on the Board both bear on state government regulation of the University, as we shall subsequently see.

The University of California originally consisted of the campus at Berkeley and nationally most persons continue to hold the two to be synonymous. But the University has, in fact, become a nine campus system including--in addition to Berkeley--UCLA, the medical school at San Francisco, and campuses at Davis, Santa Cruz, Santa Barbara, San Diego, Irvine, Riverside, and San Diego. The University Regents have formally delegated authority--especially to set admissions requirements (within Master Plan constraints), to fix degree requirements, and to approve courses and curricula--to the Academic Senate. As the UC System grew, branches of the Academic Senate developed on each campus with similar delegated authority. Hence, there is a substantial formal governing authority in the faculty of the University. This authority is no greater than the scope of constitutional power available for the Regents to delegate. But it is nonetheless an authority which cannot be reached by the striking of agreements in which state government, acting upon the University administration in budgetary or other legislative processes, might seek to regulate the curriculum or certain other affairs of the University of California. Since informal regulatory devices have assumed heightened importance in recent years, this internal delegation of authority should be regarded as no small matter.

The administration of the University of California is vested in the President of the University, who has established a formal statewide administrative staff and structure operating out of University Hall on the Berkeley campus. At a time when other campuses were regarded as branches of Berkeley, the President tended to identify with Berkeley and to operate a highly centralized administration which closely regulated other campuses in a manner that conformed to Berkeley's needs. As the UC System grew in size and proliferated in type during the 1960's, the central administration of the University of California apparently followed a policy of decentralization. The campus Chancellors and their staffs, together with the various branches of the Academic Senate, have therefore become far more significant than formerly.

The California State University and Colleges. The founding of the State Normal School in San Francisco in 1862 marked the beginning of the educational system that would later become The California State University and Colleges. The San Francisco institution was moved to San Jose in 1870; and by 1913 eight other institutions had been opened, including a polytechnic institute at San Luis Obispo. The governance of these institutions was originally vested in local boards, but it was soon transferred to the State Board of Education (later Department of Education), which was headed by the elected Superintendent of Public Instruction. Between the world wars, another polytechnic institution was added (at Pomona), and the institutions were renamed state teachers colleges. In 1923 the institutions were authorized to confer the bachelor of arts degree in teacher education. In 1935, they were once again renamed, this time as state colleges, and were authorized to offer undergraduate liberal arts degrees. After World War II, campuses were added until in 1976 the system reached a total of nineteen. Moreover, the institutions were authorized to award undergraduate and masters degrees without regard to whether the disciplines were connected to subjects taught in the elementary or secondary schools.

The Master Plan of 1960 not only defined the mission of The California State University and Colleges, it separated them from the State Department of Education and established them as an independent system of higher education. Although the Master Plan recommended that this new system be given constitutional recognition, similar to the University of California, the Legislature declined. The essential reason apparently was legislative discontent with the University's independence and the Legislature's desire to set policy for higher education.

The California State University and Colleges are, therefore, a statutory entity. They do, moreover, have a long history of state regulation; their names, missions, and budgets were historically a subject of legislative action and their governance was in the hands of an elected official (the Superintendent of Public Instruction) and a state administrative agency (the Department of Education). Both their statutory status and their history probably bear heavily on the extent of state regulation in the modern time. This is a matter to which we shall subsequently return.

The Board of Trustees of the CSUC consists of sixteen members appointed by the Governor, with Senate confirmation, for eight year terms. An alumni Trustee is appointed for a two year term and a student Trustee for a one-year term. The Chancellor of the System serves ex officio as do the Governor, Lieutenant Governor, Speaker of the Assembly, and State Superintendent of Public Instruction. The Board has delegated wide authority to the Chancellor, who has in turn extended it to the campus Presidents. "Consultation" with the faculty is required, but there is no delegation of authority to them. The advice given by both the campus senates and the Statewide Academic Senate may be followed by the Chancellor and Presidents, but it has no binding force. Indeed, there is a substantial practice within the CSUC of declining to follow faculty advice. The longstanding divisions between the system and campus administrations, on the one hand, and faculty, on the other, are probably a major contributor to state regulatory intervention in the affairs of the CSUC.

The approach to governance has apparently changed profoundly since the CSUC was created in 1960. Former President Buell Gallagher of the City College of New York was selected as the first Chancellor of the CSUC.

Gallagher apparently never took hold of the responsibility of making a single system from campuses that had in large measure been independent and which, moreover, had histories quite distinct from the system of which they now had become part. He was, moreover, largely in a defensive position in responding to attacks from the far right about his alleged radical past. In 1962 he resigned and was replaced by President Glenn Dumke of San Francisco State College, who had been a member of the Master Plan team representing the State Colleges. Dumke has served as Chancellor until the present time.

Dumke himself analyzed the major organizational differences between the University of California and the CSUC System.

> The university of California had emerged from a single mother institution, and all the university campuses started as branches of Berkeley. As a result, the university had quite naturally developed a tightly centralized system with a large central staff and much power in the hands of the president. The state colleges had an entirely different history. They had not emerged from a mother institution but found themselves suddenly organized in a system composed of sixteen ruggedly independent and somewhat diverse institutions
>
> . . .

> Consequently, the Chancellor early announced that no attempt would be made to jam the state colleges into a tightly centralized organization which paralleled the university. Rather the goal would be a federation, not an empire, in which the campus presidents would retain much authority. Despite the high degree of local autonomy thus retained and the large amount of authority delegated to the campuses and their presidents, the issue of local autonomy has been a serious one and constitutes one of the chief problems of the central office. [6]

During the first years of the CSUC's life, conflicts between faculty and administration were "resolved by compromises and concessions on both sides but with considerable weight being placed on the faculty as the nuclear group in academic governance."[7] The outbreak of campus disturbances, in Dumke's view, "brought about fundamental changes in the concept of academic governance."[8] Greater administrative authority and centralization of power became essential.

> Widely dispersed decisionmaking procedures which had worked reasonably well in earlier days now simply did not fill the bill, and the authority of the administrator was recognized to be of great importance if stability were to return to the campus. As a result, there has been considerable movement away from the modeling of

> campus governance on the political state, with the faculty acting as a legislature and the administration serving merely as an executive to carry out its policies. Emphasis has been placed on the development of a management hierarchy in which the administrator assumes an active role of leadership and responsibility. The federation concept, although maintained in principle, was modified to give the central office much authority, and although every effort has been made to maintain the power of the presidents and as much local autonomy as possible, there has become a clear trend away from decentralization toward a more administrationoriented power structure.[9]

This doctrine of governance for a large multi-campus system has substantial implications for the question of regulation of higher education. Although we will return to the role of the system office later, it is important here to identify several salient issues. To what extent is the strong system central office the most important regulatory device for higher education? Is it central office regulation rather than state government regulation that is most pertinent to and most restrictive on the conduct of higher education? To what extent does centralized and uniform systemwide governance invite or permit state regulation by providing a single lever for the exercise of regulatory authority over a large number of institutions? And, conversely, to what extent are central offices in multi-campus systems compelled to strengthen their control and impose uniform practices on their campuses in order to respond to state government regulations?

The California Community Colleges. Until 1968, California's extensive community college system was, at the state level, under the State Board of Education and its administration was in the State Department of Education. It was and continues to be constitutionally a part of the public school system. In 1967, an independent fifteen-member Board of Governors was established by the Legislature. Its members are appointed for four year terms by the Governor. When the Board came into existence in 1968, it established its own administrative arm, the Chancellor's Office. The Board has limited authority, which includes allocating federal funds for vocational education and state funds for extended opportunity programs and services, approving academic programs, and authorizing facilities construction.

Originally many of the community colleges were administered by local boards of education; and although a few such arrangements remain, most districts have opted for independent, elected boards of trustees. But the roots of the community college governing bodies in local boards of education are important. California has a strong and continuingly vital tradition of local home rule; and the community college trustees, evolving from local boards of education, have maintained much of the autonomy that has long been associated with California's home rule tradition. The community college system's enrollment (more than one million students in 1976-77), scope (104 institutions in 70 separate districts), and diversity have discouraged extensive centralized control. Finally, the community colleges have been primarily financed from local sources (see Table 4); and this has stood as a barrier to state regulation.

The continued independence of the California community colleges may well be called in question as the aftershocks of Proposition 13 are felt. Preliminary figures show that massive state government "bail out" payments to community college districts, for the purpose of replacing lost property tax revenues, will bring state support from the 1977-78 proportion of 40 percent of community college budgets to 66 percent. But some fiscal officers in Sacramento suggest that before 1978-79 passes, the actual state support will actually constitute between 75 percent and 80 percent of community college budgets. They mention, moreover, the prospect that future property tax relief measures will provide for state pick up of the share of community college budgets that remain on the local property tax levy. Whether a state government which pays the piper will abstain from calling the tune remains, at best, doubtful.

The California Postsecondary Education Commission. As in other states, "coordination" is a popular and recurring idea in California. Indeed, California's efforts at coordination antedate those in most other states. There is little value in tracing the various institutional structures which have been established or recommended to coordinate higher education in California. It is more useful to mention recent efforts that reflect different roles perceived for coordinating bodies. The Liaison Committee, which existed before adoption of the Master Plan and which indeed instituted the Master Plan Survey Team, was an ad hoc group created by the University of California and the State Board of Education to promote discussions about matters of mutual concern to the University and the State Colleges. The Liaison Committee was not only lacking in legal authority, but its scope was solely interinstitutional.

The Coordinating Council for Higher Education was created in the aftermath of the Master Plan. The Master Plan Study Team recommended a twelve member council consisting of three members each from the community colleges, the CSUC, the University of California, and the state's private institutions. The Legislature added three public members to be named by the Governor. In general terms, the law delegated three major functions to the Coordinating Council: to review budgets and capital outlay requests of public sector institutions, to interpret the functional differentiation between the sectors as provided in the Master Plan and to assure that each was playing its proper role, to plan orderly future growth in programs and facilities for higher education. Although the law mandated that the Coordinating Council was to advise the Governor and Legislature as well as the various segments of higher education, its composition lent itself to the sneer that it was a "special interests council." Some observers have argued that it did not in fact act out this prediction, but the Council nonetheless showed itself unable--at least in the eyes of the Legislature and Governor--to give advice that faced the realities of limited funding or projected enrollment declines. But 1970 the Coordinating Council was held in low esteem in Sacramento. The Joint Legislative Committee on the Master Plan for Higher Education, which reported in 1973, recommended that the Council be replaced by a Postsecondary Education Commission whose primary fealty would lie with state government rather than with the higher education establishment.

The California Postsecondary Education Commission created in 1973 was composed of twenty-three members: twelve public members, four each appointed by the Governor, the Speaker, and the Senate Rules Committee; two members from each of the three public higher education sectors; two members representing the independent colleges and universities; one member representing the California Advisory Council on Vocational Education; one from the Council for Private Postsecondary Educational Institutions (primarily proprietary schools); and one representing the State Board of Education. The Commission's composition gave a slight edge to "public members" and reflected the state government's increasing inclination to make coordination an arm of state government rather than an extension of postsecondary institutions. Moreover, the representation of vocational and proprietary institutions reflected the broadening interest of the Legislature in being informed about and perhaps regulating all aspects of postsecondary education.

The tendency to make the Postsecondary Education Commission an arm of state government, with its primary responsibility to the Governor and Legislature, has recently been heightened by two other events. First is the resignation of its Director, Robert O'Neil, who had also headed the former Coordinating Council. O'Neil would not have regarded himself as a partisan of the various educational sectors, and he often expressed his frustration in dealing with them. But he was generally regarded by the legislative and executive branches as ineffectual in representing a "broad public interest" in reviewing and recommending higher education programs. His successor, Patrick Callan comes to the Postsecondary Education Commission from successful assignments in coordinating bodies in Montana and Washington. But the symbolic importance of his appointment lies in his earlier service on the staff of the Legislature's Joint Committee on the Master plan for Higher Education and his close working relationship with its chairman, Assemblyman John Vasconcellos. In these respects, Callan may be viewed as having "state government allegiances." His seven-month tenure does not allow any measure of his effectiveness.

The second event enhancing the state government orientation of the Commission was the enactment in 1978 of legislation further strengthening its public majority. Although the 1973 legislation gave public members a one vote majority on the Commission, state officials continued to be concerned about the Commission's dominance by its higher education members. They were far more likely to attend; and they were supported by institutional staffs that often put them at an advantage not only over the public members but also over the Commission's own staff. The 1978 amendments set representation from the three public higher education sectors and the independent colleges and universities at two members apiece, but all other institutional representation is eliminated. The "public members" will now number nine, or 60 percent, of the reduced fifteen member Commission; the Governor, Speaker, and Senate Rules Committee each name three public members.

The authority of the Postsecondary Education Commission is difficult to measure. By law it is designated to administer virtually all federal programs requiring single agency coordination or administration. Moreover, it is authorized to establish a five year plan for higher education programs and facilities and to update the plan annually. Its mandate reaches to program review, to innovative educational programs, to access and admissions, and to financial aids. It is invited to participate in the budget process by giving advice to the Legislature and Governor consistent with its various plans and projections. The law provides that all higher education segments must, upon request, provide the Commission with data and other information that it seeks to carry out its functions.

Despite this generous statutory mandate, the effectiveness of the Commission will ultimately depend on whether it can produce staff work that will not fall victim to the criticism and "reanalysis" of the stronger and larger staffs of the various higher education segments and on whether it proves to have greater political clout with the Legislature and Governor than its "constituent" institutions. After seven months in office, its new Director has already faced and temporarily lost a minor skirmish: against the recommendation of the Commission, based on a needs assessment, the University of California has established a new doctoral program in Classics on its Santa Barbara campus. Such a small matter would ordinarily be of no importance, but on such trivial issues may be tested the credibility of a new Director and Commission. Callan's direct line to influential legislators has not yet been tested but will be a major factor as he attempts to establish the Commission's authority during the 1979 legislative session.

<ins>Other Agencies</ins>. Although it does not appear as a major regulatory agency in this study, the California Student Aid Commission administers programs which affect both public and private institutions. Its various programs--especially the state scholarship program and the state graduate fellowship program--are available to students in both sectors. Since most awards support tuition and fees, the private institutions, with their higher costs, benefit substantially. Regulations governing financial aids are extensively prescribed by the Legislature, so the Commission does not emerge as a major higher education control agency. Its recommendations do, however, carry force with elected officials because the Commission's membership,

appointed by the Governor for four year terms, includes representatives of private institutions, the various public higher education segments, and the lay public.

The California Advisory Council on Vocational Education, whose members are appointed by the Governor for four year terms, and the Council for Private Postsecondary Educational Institutions (primarily proprietary vocational and technical institutions), whose members are named by the State Superintendent of Public Instruction for four year terms, are other agencies whose opinions may bear on higher educational policy. In the main, however, they contribute little to government regulation of postsecondary education. It is not clear whether they play the reverse role of acting as barriers against governmental regulation of education.

The Sources of Regulation

Before turning to California's variegated techniques of regulating higher education, it is useful to mention briefly the many quarters from which such regulations spring. Some sources of regulation have direct legal authority for their prescriptions; others have delegated authority or perhaps only influence over the development of regulations promulgated on the authority of others. It is important to emphasize that the second group of regulators are every bit as powerful as the first, and in the California context they may indeed be emerging as the more important group.

The role of the national government in regulating higher education in California is not considered in this study, whose focus is on the relationship between state government and postsecondary institutions. In assessing the total regulatory load on educational institutions, however, the differential impact of federal regulations should be mentioned. Virtually all institutions are restricted by and bear the mounting costs of federal regulations involving affirmative action, student financial aids, rights of the handicapped, and student records.

The newly developing limitations on research funding and the burgeoning audits of these funds appear on the face to touch only a few of

California's two thousand postsecondary educational institutions. Their overt impact falls primarily on the University of California and a handful of prestige private institutions, such as Stanford, California Institute of Technology, and the University of Southern California. They have a wide indirect impact, however.

All segments of California higher education have benefitted from the knowledge production, educational facilities, and clustering of scholars in the eminent research institutions. The CSUC campuses, for instance, have links to research activities in the University of California. In the state's metropolitan areas the relationships of many individual faculty persons in nonresearch institutions with colleagues in the research universities are a major source of stimulation, cross-fertilization of ideas, and renewal. In more than a few instances, their research is conducted in libraries, laboratories, hospitals, and other specialized facilities of the research institutions. Although there has been little study of these largely informal interinstitutional research links and no broad coalition of nonresearch and research institutions has been formed to discuss research funding and regulations in these broader terms, mounting federal restrictions in this area have a very real impact on higher education institutions which are not direct recipients of major federal research support.

A quite different regulatory style, which is less philosophic in nature, also comes from the executive branch. California's State Department of Finance is plainly the most powerful of the state agencies. On the one hand, it serves the Governor as his budget and policy development agency; on the other, it has independent fiscal control responsibilities and a civil service bureaucracy that endures succeeding governors. In serving the Governor the Department of Finance shapes appropriations to suit his overall budget plan, and it may also insert budget control language that shapes policies for the expenditure of funds.

In its fiscal control posture it may regulate virtually every activity of state educational institutions. At its worst extreme, it may require that every purchase of certain high speed selectric typewriters, of file cabinets, of telephone lines, or of desk calculators equipped with tapes be approved by its staff. For the CSUC, the state's line item budget may inhibit fiscal flexibility; and transfers from one line to the other have sometimes required Finance approval. As we shall subsequently see, the personal philosophy of the appropriate program chiefs in Finance may be the primary influence in determining the scope of managerial prerogatives held by system offices, institutional managers, and others charged with conducting educational programs.

The California Legislature is widely praised as one of the most advanced and effective in the nation. Under the leadership of former Speaker Jesse Unruh, it increased salaries to allow virtually full-time service by members, it staffed itself generously, and it revised its rules to provide flexibility in dealing with legislation. In addition to greater institutional capability, the California Legislature has also become a forum in which individual legislators may virtually dominate policy in areas of special concern to them. One source of their influence is the constitutional requirement that the state budget obtain a two-thirds vote in each house. Individual members may hold out, therefore, for particular concessions, which the legislative leadership must often make in order to build the necessary constitutional majority. This may produce regulations of higher education which are the product of a single legislator's preferences rather than a considered institutional position by the Legislature. A 1978-79 budget restriction on off-campus state-funded courses is a recent example which is more fully described in the next section of this paper.

A somewhat different situation has emerged in the case of Assemblyman John Vasconcellos who has won a national reputation for his interest in higher education. In his eleventh term, Vasconcellos is chairman of both the Permanent Subcommittee on Postsecondary Education of the Assembly Education Committee and chairman of the Education Subcommittee of the

Ways and Means Committee. In short, he heads both the policy committee and budget committee concerned with higher education. In addition, in both 1977 and 1978, Speaker Leo McCarthy named Vasconcellos to the budget conference committee where he was in a strategic position to advance higher education budget policies that had originally been proposed by his Ways and Means Subcommittee. So formidable was Vasconcellos' power that the UC lobbyist in Sacramento took the unprecedented step of complaining publicly that Vasconcellos wielded disproportionate influence over higher education.[10]

Vasconcellos brings enormous energy and attention to his work. But he also brings a particular, and probably maverick, philosophy about the mission and process of higher education. He has not hesitated to use his vast formal powers and his very substantial standing with his colleagues to try to mold California higher education in his own image. While there is no other legislator whose interest or political influence are quite as high as Vasconcellos', the point needs to be underscored that it is legislators as well as the Legislature that are an important regulatory force in modern relations between California state government and higher education.

Legislatures, of course, operate through committees. Although a large number of committees may at some time have jurisdiction over matters involving higher education, the most pertinent committees are the Education

Committees in the respective houses, the budget committees (Ways and Means in the Assembly; Finance in the Senate), and the conference committee that resolves budget differences between the two houses. The standing policy and budget committees work primarily through subcommittees. Indeed, one staffer reported that the Ways and Means Committee simply approves whatever comes forth from its Education Subcommittee.

The internal dynamics of the Legislature have reduced the role of the Education Committees. In short, less and less is being done by the subject matter committees, while more and more is being done by the budget committees. One speculation is that this drift is institutional, another that it relates to personnel. The former explanation points out that policy is more easily made when attached to the omnibus budget bill, which faces a July 1 deadline, is a bundle of compromises designed to gain the necessary constitutional majority, is subject to less detailed scrutiny because of its sheer bulk, and need not survive review by both subject matter and fiscal committees. Across the United States budget bills increasingly have become omnibus policy documents, and the exaggerated extent to which the California budget is used for this purpose may simply reflect the state's advanced development of the techniques of legislative control. If this theory is correct, the California Legislature, which is widely emulated in other states, may have blazed the path that legislative regulation will follow elsewhere.

The second speculation is also plausible in the California context. The combination of budget and policy subcommittee chairmanships in the hands of Assemblyman Vasconcellos permits him to select his forum for policymaking. Since the budget committee is required to meet regularly over a long period of months and since various policy riders can easily be attached to the budget, the Ways and Means subcommittee is a better forum. Moreover, the Ways and Means Committee, as previously mentioned, has a well established practice of accepting, with only rare questions, the subcommittee's reports. The full Education Committee, on the other hand, is so often preoccupied with matters arising from other educational sectors--especially the elementary and secondary schools--that it would be more difficult for the Permanent Subcommittee on Postsecondary Education's recommendations to move as assuredly or rapidly through that body to the floor.

The California Senate, like the United States Senate, tends to be a more generalist body; its members are spread among many committee assignments and, as one staffer put it, the atmosphere is more nearly that of a gentlemen's club. Moreover, the Senate Finance Committee's Subcommittee on Education has tended to be a peculiar combination of Democrats more moderate or conservative than the majority Democratic party. Although the Senate subcommittee is much less activist or policy-oriented than the Assembly subcommittee, it may be speculated that its special composition has invited its members to try to influence educational policy through the budget process because their views stand a far better chance to prevail in that forum than in the policy committee arena. The Senate Education Committee is not in the same hands as the Finance subcommittee, and it is less vigorous--as are most Senate committees--than its Assembly counterpart.

If these personnel explanations for the greater drift of policymaking to the budget document are valid, the use of the budget as a higher education policymaking document might be abruptly reversed by relatively small changes in legislative membership. It is my own view, however, that the institutional explanations are more plausible and that state legislative regulation of higher education will continue to accelerate at a greater rate in the budget process than through the subject matter policy committees.

Legislative budget staffs should be regarded as separate regulatory agencies, although finally they are accountable to the Legislature and its committees. The foremost regulatory body is the Legislative Analyst, reporting to the Joint Legislative Budget Committee, which "conducts a continuous research and factfinding program on the operation of state government with particular emphasis upon preparing a critical analysis of the Governor's Budget, all appropriation bills, revenue bills, and bills affecting governmental operations and organization." The office gained enormous stature under Analyst A. Alan Post. Not only was its work product thorough, but it developed a large, nonpartisan permanent staff of analysts and subject matter experts. It would be fair to characterize the Analyst's office as performing virtually all of the policy development and budget development functions performed in the executive branch by the Department of Finance. Moreover, it often receives sweeping delegations to act as the Legislature's counterpart to Finance in authorizing shifts of funds between lines in the budget, releasing funds upon the meeting of specified conditions, and so forth. It does not, however, engage in fiscal control activities.

The Analyst's Office engages in continuing review of specific higher education programs as well as of higher education funding formulas. It is mainly responsible, also, for assuring that conditions imposed by the Legislature in the budget process are met by educational agencies. Recently pressed by the growth of competing staffs in the budget committees, the Analyst's Office seems to be developing a taste for budgetary "horror stories" which persuade legislators that it serves them well as an advocate and watchdog. It has developed very little interest, by contrast, in the conditions which inhibit or promote effective management of higher education resources by the respective systems and institutions. This may not be surprising, considering its essentially legislative orientation; yet most of the regulations recommended by the Analyst have as their major secondary effect the restrictions of flexibility of higher education managers to use resources to carry out stated legislative goals.

Alan Post gained such prominence as Legislative Analyst that he did not hesitate publicly to discuss broad policy issues and to propose approaches to public problems. In a widely circulated speech on higher education, Post warned of budget ceilings, proposed tuition for the CSUC, and urged massive revisions in learning methods.[11] Among the steps he outlined were vastly expanded programs of credit by examination, off-campus instruction through various media technologies, extended hours of instruction and larger classes, and revision of credit-granting procedures to facilitate transfer credits among institutions in the public and private segments of higher education. From the new approaches to learning that he envisioned, Post projected "a revision in the task and function of the faculty--more time spent as advisor and consultant to students, less time in lecture or laboratory supervision."[12] Many of Post's ideas coincided with those advanced by legislative committees and particularly by Assemblyman Vasconcellos. Whether initiating policies or publicly endorsing proposals advanced by others, Post demonstrated that a respected Analyst can play a central role in formulating higher education policy in California.

The staff concerned with higher education in the Assembly is essentially a reflection of the combining in John Vasconcellos' hands of the policy and budget subcommittees. As chair, he has named staff members who reflect his special philosophical position (which is described more fully later) and who, moreover, support his style of conducting legislative business. This style, discussed subsequently, emphasizes policy rather than budgetary hearings, a network of individuals in various campuses who use the subcommittee as a forum to raise issues about the conduct of higher education, and a hearing format that is quite unstructured and often emotional, even acrimonious. The Vasconcellos staff people may properly be described as ideologues, using the proper dictionary definition rather than its more common, often pejorative, usage. In this, they are often not amenable to the kinds of committee staff-to-bureaucracy relationships that characterize most congressional/agency relationships and which are becoming much more common in state governments as legislative staffs become larger and more permanent. The staff for the Senate budget subcommittee, which will soon lose an experienced and influential professional, is smaller, tends to be nonideological, focuses primarily on fiscal rather than policy questions, and has an articulated position that most policy issues should be resolved by higher education governing boards within the broad guidelines established by pertinent constitutional, statutory, and budget line language.

It should be emphasized, however, that staffs in both houses play important independent roles as they write budget language, prepare position papers, establish committee agendas, and give "advice" to staff people in the higher education bureaucracies. This latter activity--which is pursued in varying degrees by all elected officials, political staffs, and state fiscal agencies--is an important form of "hidden control" that deserves special notice and will be described more fully in the following section of this paper.

The California Postsecondary Education Commission and its predecessor, the Coordinating Council for Higher Education, have not proved major regulatory agencies. Domination of the Coordinating Council by higher education interests scarcely predicted such a result. At best, the Council was a forum in which one segment or another of California's higher education segments could win the symbolic victory of a recommendation to the political departments of some expansion in its resources or mission. Too often the Council was an approval mill for whatever higher educational systems wanted; each system was careful not to interfer with the aspirations of the other unless they conflicted with its own ambitions. In the mid-1970's, when higher education's standing with the Legislature and the Governor began to decline, the Coordinating Council staff began to make recommendations that diverged from institutional aspirations, but the Council's political base was by then so narrow and its credibility so tattered that these recommendations had little force.

The Postsecondary Education Commission, especially after the 1978 revision in its membership, will not be dominated by institutional representatives. Moreover, its new Director has direct links to the Legislature, which gives him credibility and an initial political base. It remains to be seen whether these changes will allow the Commission to convert its stated authority, especially its five year planning responsibility, into regulatory recommendations to which the Legislature will defer.

It may seem perverse to cite the higher education system central offices as state government control agencies. Yet my study of California higher education politics suggests that this is at least a partially correct characterization of the CSUC Chancellor's Office. The University of California has constitutional autonomy and operates in a milieu, discussed later, which does not impel it in a similar direction. Because the Community College Board of Governors is statutorily weak, while the local districts are politically powerful as well as largely self-financed, there tends also to be less state government orientation and much less centralization in that sector.

The CSUC Chancellor's Office is a regulatory agency partly because of its vulnerability to state government control and partly because of the "management philosophy" of Chancellor Dumke, which was discussed previously. The forms of regulation are numerous. Literally hundreds of orders annually pour forth from the various Vice Chancellor's Offices--Faculty and Staff Affairs, Academic Affairs, and Business Affairs. Many of these require detailed reports of campus activities, and they constitute a far greater burden on campus managers than the reports required by an increasingly regulatory national government establishment. Others impose restrictions upon campuses, such as providing uniform personnel plans for libraries, scheduling campuses for the automation of various instructional or administrative activities, prescribing the percentage of faculty positions that can be used to employ graduate assistants, and so forth. Since many of the campuses have histories and traditions substantially predating the creation of the CSUC and because the campuses have widely different programs, ranging from primarily polytechnic to primarily liberal arts, these uniform rules issued by the Chancellor's Office tend to have a homogenizing effect.

In addition to instructions from the Vice Chancellors, the central office issues Executive Orders from the Chancellor and numerous formal regulations, having the force of law, that are approved by the Trustees or by the Chancellor upon their delegation. In fiscal affairs, the Chancellor's

Office has tended to impose restrictions on the use of funds that go beyond those required by the state Budget Act or its accompanying documents. Internal resource allocations within the CSUC are channelled by more than three hundred formulas devised primarily by the Chancellor's Office in consultation with the Department of Finance and the Legislative Analyst.

Because of its feeling of vulnerability, the CSUC central office has frequently tried to anticipate the preferences and even the moods of the Legislature, of individual key legislators, and of the Executives as well as of the numerous state agencies (Department of Finance, Legislative Analyst) and legislative committee staffs that might influence the CSUC budget or legislative program. Described by a leading member of the Statewide Academic Senate as "preemptive capitulation," this political strategy has tended to increase the volume of centralized regulation in attempts to avoid criticism or embarrassment in Sacramento.

Several recent examples will illuminate the tendency in the CSUC system to regulate even the most minor details of campus conduct and organization. In 1978 the Vice Chancellor for Faculty and Staff Affairs issued a library personnel plan defining the status of professional librarians and setting criteria for employment, retention, and promotion. Among the plan's provisions was a standardized organizational structure for libraries which permitted smaller campuses to appoint one assistant director, medium-sized campuses two, and large campuses three. Since libraries vary widely in age, collection size, use, scope, and curriculum served, such rigid structuring of library administration seemed unnecessary. Moreover, the central office declined to permit any exceptions to the plan, even if campuses had contradictory pre-existing arrangements and were willing to fund alternative organizational patterns from their own existing budgets. As a consequence, some campuses were required to reorganize established library administrations while others did not intend to use even the quota of assistant directors prescribed. Similar numerical quotas apply to the number of Schools, deans, vice presidents, department chairs, and other administrative units and personnel that any campus may have. These regulations are far greater in rigidity and detail than those imposed by state agencies.

Turning for a moment to the anticipatory strategy of the CSUC Chancellor's Office, which makes it virtually a branch of the state regulatory agencies rather than primarily a spokesman for its institutions, two examples may suffice. First, in the aftermath of the Proposition 13, Governor Brown prescribed a "hiring freeze" in state agencies. The CSUC System was not included. Nonetheless, the Chancellor's Office imposed its own freeze, following gubernatorial policy. Since the CSUC employs part-time faculty in about 20 percent of its budgeted positions and those faculty are hired on semester-by-semester contracts, the planning of campus curricula was virtually put in abeyance during the months of July and August, at the very time when students were registering and the need for additional course sections was being determined. Since the best part-time faculty, particularly in overenrolled areas such as business administration or engineering, also have opportunities in competing institutions, especially in the metropolitan areas of the state, the Chancellor's Office action had enduring effects for the campus educational programs in the Fall semester.

In August the authority to waive the freeze, which had been held in the Chancellor's Office, was delegated to campus Presidents, who in turn mainly delegated it to vice presidents and deans. Since Proposition 13 budget cuts had by now been passed back to campuses with instructions that campuses administer them locally, the rationale for the hiring freeze had disappeared. Nonetheless, the "freeze" and its attendant paperwork for making exceptions were kept in force. Chancellor's Office officials explain that this was for the symbolic purpose of supporting the Governor's posture of austerity. Since the freeze was no longer the instrument for making necessary budget cuts and entailed a considerable flow of paper, its actual effect may have been counterproductive because it actually increased rather than decreased administrative costs. But the self-perceived vulnerability of the CSUC and its consequent response caused it to take a regulatory approach for largely symbolic reasons.

A second example of CSUC responsiveness to state government agencies occurred in the 1978-79 budget formulation process. In the aftermath of Proposition 13, the Chancellor's Office decided that long-established budget priorities, which had been presented to the Legislature in previous years to begin the slow process of building understanding and support, should be abandoned and only a handful of new program items should be presented. An improvement in the System's unusually spare sabbatical plan (only one of each twelve eligible persons is funded for sabbatical leave) and a reduction in teaching loads from twelve units to nine units for persons teaching in the more intensive graduate programs were consequently not requested, although they had been priority items in previous years.

The central office position was that it would be politically unwise to seek such support in the aftermath of Proposition 13 and in the face of a declining state surplus. Several Trustees and the Statewide Academic Senate argued that the responsibility of the Chancellor's Office was to state higher education's real needs, while it was the responsibility of state budget agencies and of elected officials to make necessary cuts of those needs to conform to available funds. In perspective, the Chancellor's Office often acts as if it were an arm of state agencies. It anticipated the Governor's political needs and served in the budget process as an arm of the Department of Finance in making reductions in the higher education budget. Its policy toward budget reduction was in contrast with the stance adopted by the University of California, which leaned in the direction of initially stating its needs broadly, anticipating nonetheless that in the budget process it would be compelled to work with state agencies in making reductions.

These extensive comments portraying the system office as a state control agency reflect an important theme of this study. The tendency in the nation is to create multi-campus systems to reduce wasteful competition, to eliminate duplication, and to improve management. One of the underlying assumptions of this strategy is that it is preferable to have higher education agencies, namely the system central offices, manager universities than to have state fiscal agencies do so. The CSUC response raises an important question: "under what circumstances does a higher education system office act in ways primarily consonant with the aims of state agencies, when those diverge from the preferences of its universities, by imposing upon campuses the kinds of regulations that state agencies seek?"

Since neither the University of California nor the Community Colleges Board of Trustees has developed so complex a pattern of regulating campuses nor is as responsive to state government preferences as the CSUC System, California is a site where this question can be tested. Speculation about the critical variables that shape the answer to our question are reserved for a later section of this paper. For the moment, however, it is important to observe that the central offices of multi-campus higher educational systems may functionally, even though not structurally, perform as state agencies in regulating higher education.

The Techniques of Regulation

Although I have referred in the preceding section to several methods of regulation employed by various political and administrative arms of state government and by the CSUC Chancellor's Office, it is useful to review in greater detail the rich array of regulatory techniques that have been developed in California. Most of these methods are also available in other states. What may set California apart is that these techniques are extensively used and that they are no longer regarded as extraordinary methods to solve particularly hot issues between state government and higher education. Rather, the mood in California is that regulation is the norm, and many public officials feel quite comfortable employing whatever methods are available. In only a few cases do they perceive either policy or political restraints against the regulation of higher education.

The Structure and Powers of Governing Boards. The California Legislature has recently undertaken to shape the structure and powers of higher education governing boards to suit legislative purposes. I have already related the changes in the composition of the Coordinating Council and its successor, the Postsecondary Education Commission. These changes were intended to enhance legislative and executive authority over higher education.

Similarly, the reduction in the terms of Regents of the University of California from sixteen years to twelve years had a similar purpose. Even the twelve year term represents a greater insulation than some powerful lawmakers prefer; the Joint Committee on the Master Plan for Higher Education, chaired by Assemblyman Vasconcellos, recommended in 1973 that the terms of Regents should be eight years, the same as the statutory terms of the Trustees of The State University and Colleges. Other legislative moves have been aimed at assuring "diversity" on the higher education governing boards. The same 1974 amendment package which shortened regent terms also added a new constitutional section admonishing that "Regents shall be able persons broadly reflective of the economic, cultural, and social diversity of the state, including ethnic minorities and women."[13] The requirement that the Governor consult a broad-based advisory committee and the addition of student and alumni Regents, also part of the 1974 constitutional changes, reflect legislative policy about Board composition.

It is useful to recall here the strong state government commitment to maintaining elected officials as ex officio members of the major higher education governing boards. This gives elected officials a direct voice in the affairs of the universities, and in at least one major instance their votes were decisive in discharging the administrative leadership of a public sector system. The Joint Committee on the Master Plan for Higher Education recognized a "risk of politicizing governing boards" by the seating of elected officials as ex officio members; but they regarded this danger as outweighed by the "value in some members[of the boards] being directly responsible to the people of California." [14]There is one additional aspect of the influence of ex officio elected officials on governing boards: the Governor is the President of both the Regents and the Trustees, and the last two governors have used that status on important occasions to try to influence policy for the universities.

The authority of the Regents is constitutionally established and is therefore beyond immediate state government control. But the authority of the CSUC Trustees, the Community College Board of Governors, the Postsecondary Education Commission, and all other higher education advisory or governing bodies is within legislative and executive control. Moreover, every statutory or budgetary regulation by the Legislature alters the authority of the pertinent governing boards which are thereby ousted of their former discretion in dealing with the subject. Beyond legislative and executive control of higher education lies the initiative process. Hence, the personal financial disclosure provisions of California's Proposition 9 apply to officials of higher educational institutions; and one of the substantial impacts of Proposition 13 has been to reduce the ability of community college district boards to raise funds from the property tax.

Control Over Personnel. Whatever may be the structure of governing boards, political officials are in firm possession of the appointing process by which Regents, Trustees, Governors, Commissioners and the rest are appointed. In California as elsewhere, this has constituted a very real means of regulation of higher education. Governor Jerry Brown has appointed many women and minority members to governing boards about which the Joint Committee on the Master Plan for Higher Education complained: "the typical appointee . . . has been white, male, at least middle-aged, well-educated and very successful financially." Moreover, "a governor naturally tends to appoint persons who share his ideology."[15] Governor Reagan deliberately and systematically appointed governing board members of a strongly conservative bent. Governor Brown's appointees, by contrast, while providing "rainbow" representation, do not seem to share a common ideology, although they have a tendency to regard the higher educational "establishment" with suspicion, to favor collective bargaining, and to be sensitive to student and faculty demands upon University administrations.

Ultimate control over governing boards, through the appointing process, is not shocking in American higher education. The assumption has long been that public officials are entitled to assert such authority in the long term. What has been feared is short-term political control which might make academic programs and the free expression of ideas vulnerable to ill-considered currents of official or public opinion.

The real power of Regents and Trustees has, however, historically been circumscribed because their knowledge is limited and the time they can devote to their positions is insufficient to master the detailed operations of institutions. As a result, they are typically coopted by the University administration and faculty. Moreover, long-standing role definitions emphasize their supportive ("cheerleading") function rather than their governing responsibility. The political control of governing boards implicit in the appointment process has therefore often been attenuated. There is some speculation that Governor Jerry Brown's appointees have proved far more independent of institutional influences and traditional role definitions than those named by previous governors.

A quite different form of state government regulation occurs when political officials exercise their authority to replace the administrative leadership of higher education. The most noted modern example was Governor Reagan's successful maneuver to discharge UC President Clark Kerr, whom Reagan had sharply criticized during his gubernatorial campaign. The dismissal occurred at the January, 1967 meeting of the Regents, the first after Reagan took office. Reagan had direct influence over only the votes of the three ex officio members of the Board. But a Governor has enormous indirect influence because of his control over the higher education budget. Clark Kerr has described the maneuvering that led to his ouster. Even if exaggerated, his account illustrates the enormous perceived power of the Governor.

> I had . . . already lost the support of five regents. Then what [Reagan] was telling the others was "You go along with me for the first year and I'll take care of you thereafter. If you don't do it my way--which involved going along with him on the $50 million cut, kicking in $30 million from a kitty which I had saved for all kinds of good projects, and getting rid of Kerr--I'll be tough on you and I'll bring in ex-CIA chief John McCone to investigate the university. But you get rid of Kerr and you'll get back a fair amount of the budget cut."[16]

Kerr was discharged, $36 million of the Governor's proposed $50 million cut was restored in the final budget, the Regents did provide an additional $21.5 million from reserve funds, and the threatened McCone investigation was never initiated.

The whole episode was "viewed as a victory of Reagan over Kerr, with the Regents willingly casting out the president to win favor with the new governor."[17] Moreover, "a change in university administration following so closely a change in state administration is viewed as a dangerous precedent by leading educators."[18]

The lesson of gubernatorial control over higher education administration was not lost in California. During the 1972 gubernatorial campaign, leaders of the CSUC Statewide Academic Senate called for the removal of Chancellor Glenn Dumke, and reliable observers report that the Democratic gubernatorial candidate, Jerry Brown pledged to have Dumke removed. This would not, of course, be inconsistent with Brown's political interests, since Dumke is widely regarded as a conservative Republican. The dismissal did not occur during Brown's first term; but there was apparently no base of anti-Dumke Trustees among those sitting when Brown took office and it will be well into Brown's second term before his appointees constitute a working majority. Nonetheless, the very fact that faculty groups seek gubernatorial pledges to control the chief officers of higher education and that candidates for the governorship respond to such pleas is evidence that state government control of higher education through the dismissal and selection of University presidents and chancellors is gaining legitimacy in California.

A final way in which personnel selection may promote state government regulation of higher education is entirely implicit. The attitudes of those recruited to high level positions may determine the extent to which higher education institutions resist control or facilitate it. I have already pointed out that the close association of Patrick Callan, newly appointed Director of the Postsecondary Education Commission, with Assemblyman Vasconcellos and other public officials suggests that the Commission may be more an extension of state government than of higher education.

Similarly the backgrounds of other key figures may bear on their attitudes. The recently named University of California lobbyist in Sacramento, Lowell Page, was praised as a "hale and hearty fellow" whose personal style made it easy for him to get along with politicians of many styles and every viewpoint. But his real strength, from a UC perspective, is his faculty background in the University and his clear perception of what the faculty and administration of the University would regard as unacceptable governmental "intrusion" into the University's internal affairs. The predictable result of such representation is a firmly held line against state controls.

Take, by contrast, two officials of the CSUC System. Dale Hanner, the enormously capable Vice Chancellor for Business Affairs, came to higher education from the Department of Finance. He retains strong ties in the Department, which may well be a political advantage; but he also shares the control perspective of that agency. He is certainly likely to give a quite different definition than Lowell Page of what constitutes inappropriate government intrusion. Moreover, since he has no experience as a faculty person or campus administrator, his sensitivity to his own "constituency" is not as clear as his understanding of the needs of state fiscal agencies.

A different case is that of Alex Sherriffs, the CSUC Vice Chancellor for Academic Affairs. Sherriffs began his career as a Berkeley psychology professor. He became Berkeley's Vice Chancellor for Student Affairs and held that position during the student disturbances of the late 1960's, against which he took a "hard-line" position. Partly in recognition of this position, Governor Reagan named Sherriffs his secretary for education. At the end of Reagan's term, Sherriffs moved to his CSUC Vice Chancellorship; some say he was forced on the CSUC by Reagan and his trustee appointees, others suggest that Chancellor Dumke was anxious to recruit Sherriffs whose conservative credentials would signal to the Legislature and the public the CSUC's position on campus turbulence. Whatever circumstances surrounded Sherriffs appointment, it is plain that he is a man whose experiences might easily make him sympathetic to extensive state government regulation of campuses.

In speculating about the conditions which shape the attitudes of higher education leaders toward government regulations it may be as important to note on-going socialization processes as past experiences. The University of California administration is housed in University Hall on the Berkeley campus; they are in the most literal sense exposed daily to University faculty and students not only in their work but in their social lives and residential environments. This, one might guess, renews and strengthens their appreciation of the "university position" about governmental intrusion and heightens their resolve to resist every kind of government regulation. The CSUC Chancellor's Office, by contrast, is located in an isolated building on Golden Shore Drive in the harbor area of Long Beach. It is miles from any campus. The CSUC's chief officers and staff do not work in a milieu dominated by students and faculty people; neither their social nor residential lives occur in university communities; and their regular contacts with state agencies may assume almost as much importance as their regular, scheduled contacts with structured groups of campus presidents, academic senators, and so forth.

If my earlier speculation is correct the system offices in multi-campus systems have the potential to be state government oriented control agencies rather than advocates for higher education, it is important to look beyond whether university systems are constitutionally independent to additional questions about the backgrounds of chief officers, the on-going socialization processes of which they and their staffs are part, and even the location of system offices.

Master Planning. California has been a leader in regulating higher education through master planning. The Master Plan of 1960 is, of course, the most prominent example. But is is not merely an isolated episode in state government's approach to higher education policy; rather it is one in a continuing series of comprehensive studies and proposals for the regulation of higher education.

Although there were extended studies of higher education in 1899 and 1919, the Suzzalo Report of 1932, prepared by Henry Suzzalo who was then President of the Carnegie Foundation for the Advancement of Teaching, was the first that faced the modern configuration of higher education in California.[19] The Suzzalo Report suggested that the problem of planning the development of higher education and of regulating its growth be solved by placing all of higher education under a single board, specifically the Regents of the University of California. That idea failed, but the Legislature did create a State Council for Educational Planning and Coordination. Although this agency never functioned effectively and actually stopped meeting after 1945, this initial attempt at master planning did set California on the course of "coordination" rather than centralized governance for the various public segments of higher education.

Two post-World War II master planning studies preceded the Master Plan of 1960. The Strayer Report of 1948, which had been commissioned by the Legislature, set much of the groundwork for the Master Plan of 1960.[20] It recommended against the conversion of two-year colleges to four-year institutions, and it reaffirmed that their mission should be limited to terminal vocational programs, lower-division transfer courses, and general and adult education. It also reiterated that the primary function of the state colleges was "the training of teachers," although it did acknowledge the relevance of liberal arts programs in some vocational areas, for teaching training, and for students planning to transfer to the University. The Strayer Report defined the University's functions as research, graduate and professional instruction, and undergraduate liberal arts programs. It also projected that the state had "ample resources" to meet its higher education needs. The Strayer Report recommended that planning be conducted by a "coordinating" body, and it generally endorsed the existing Liaison Committee of the Regents and the State Board of Education for that purpose.

In 1955, the McConnell Committee issued "A Re-Study of the Needs of California in Higher Education."[21] It generally endorsed existing functional differences between higher education systems, supported coordination for future planning, and concluded from its projections of enrollment, personal income, and tax yield that higher education would not impose any greater relative burden on the state's resources in 1965 than it did in 1955. These projections later proved to be unrealistic, and the rising cost of college and university programs is one of the major factors spurring an increase in regulation of higher education.

Since adoption of the Master Plan of 1960, there have been three additional major studies of higher education in California; all were aimed at further master planning. The Select Committee on the Master Plan for Higher Education (known as the Platt Committee after its chairman, Joseph B. Platt) was created by the Coordinating Council for Higher Education and filed its report in 1972.[22] It's recommendations were so generally supportive of the 1960 Master Plan that it did not require legislative response, and it generally invited little attention.

A legislatively-authorized committee under the chairmanship of Assembly Speaker Jesse Unruh filed its report, entitled *Challenge of Achievement*, in 1969.[23] The Unruh Report took the position that the Master Plan of 1960 had simply affirmed and more closely defined the status quo and that it was insufficient to meet the challenges of the future. It recommended that all of higher education be under a single constitutional board (presumably the Regents of the University of California), that the Constitution be amended to permit direct aid to private institutions, that the eligibility requirements for admission to the various public segments be eased substantially, and that massive new programs of portable student financial aids be enacted. Very few recommendations of the Unruh Report were adopted, perhaps because the Report was highly favorable toward the accomplishments of California higher education at a time when campus turbulence was prompting greater public and legislative disenchantment and because Governor Reagan and many members of the Legislature feared that any substantial approval of the Report's recommendations would aid Unruh's scarcely concealed gubernatorial campaign.

The Joint Committee on the Master Plan for Higher Education, under the chairmanship of Assemblyman John Vasconcellos, reported in 1973.[24] Its recommendations are entitled to special attention because many have been adopted and because they provide some insight into Vasconcellos' special approach to higher education. The Report begins by articulating such goals as academic freedom, "equal and universal accessibility for persons of both sexes and all races, ancestries, incomes, ages, and geographies," lifelong learning opportunities, "diversity of institutions, services and methods," "flexibility to adapt to . . . changing needs of students and society," interinstitutional cooperation, involvement with local communities in providing educational services, discovery of qualitative and quantitative evaluation methods for learning, research and teaching, and accountability of institutions to both students, the public and its representatives as well as of employees (faculty, staff) to institutions.

The governance recommendations of the Report focused on strengthening coordination by creating a California Postsecondary Education Commission and by altering governing board terms to make members more accountable to elected officials; both these recommendations have been previously discussed. The Report affirmed existing differentiation of public higher education segments. But it also recommended that the principle of differentiation be extended to individual campuses, which would have well defined and specific missions; that regional cooperation be developed among institutions of the various segments; and that a "fourth segment" be created which would give credit for experiential learning, record credits earned throughout life and in different segments, offer off-campus programs where necessary, and award degrees based upon accumulated educational credits earned in these and other nontraditional ways.

To promote access, the Joint Committee suggested goals that each segment's student body would by 1980 approximate the general ethnic, sexual and economic composition of recent cohorts of high school graduates, that sweeping new financial aids be made available, and that the exceptional admissions in the UC and CSUC be expanded from 4 percent to up to 12.5 percent of lower division students. The Report opposed tuition, recommended that if tuition were charged it be done only with legislative approval and suggested that tuition, if levied, not be used for any purpose (e.g., facilities construction) other than direct instructional services. The Committee recommended experimentation with new evaluation techniques, with a diversity of new learning methods, with a fund to support educational innovation, and with the creation of regional counseling centers for persons interested in higher education. Finally, the Committee urged increased cost effectiveness and educational productivity--e.g., acceleration of degree programs, limitation of new graduate programs to "exceptional circumstances of student demand and societal need," greater use of placement and challenge exams, interinstitutional sharing of facilities and faculty, expanded use of technology (television and other media).

The consistency in master planning concerns has been illustrated by a study of reports fathered by Platt, Unruh, and Vasconcellos.[25] Each made specific recommendations about admissions, campus facilities, control and governance, functions or missions, coordination, and fiscal support. Moreover, a previous study shows that the Strayer and McConnell reports as well as the Master Plan of 1960 also made recommendations in most or all of these areas.[26] Master planning has been, therefore, a comprehensive approach to regulation.

The impact of the master planning approach is best illustrated by the adoption of most of the recommendations of the 1960 study team. Assemblyman Vasconcellos claims that 40 of the 49 recommendations of his Joint Committee were implemented in whole or in part,[27] so at least one subsequent comprehensive planning effort has also had wide impact. A secondary effect of the master planning technique is that it probes deeply into higher education, thus raising further issues and inviting additional regulatory efforts. The Joint Committee's deliberations were marked, for example, by eleven study papers ranging across such subjects as graduate education in California, the role of research, Chicanos in public higher education, evaluation techniques, and interinstitutional cooperation.

Looking back across three decades, one sees six major studies of California higher education: the Strayer Report (1948), the McConnell Report (1955), the Master Plan Study (1960), the Unruh Report (1969), the Platt Report (1973), and the Vasconcellos Report (1973). Three of these reports--the Strayer Report, the Master Plan Report, and the

Vasconcellos Report--were adopted in their main proposals. One perspective is that master planning is a continuing process and that each new set of recommendations represents updating of the state's plan. But another is less comforting: a virtually continuous process of study, with the possibility if not occurrence, of sweeping changes in admissions, facilities policy, control and governance, mission and functions statements, coordinating arrangements, and fiscal approaches is highly disruptive because it does not allow higher education to conform to the last round of recommendations before thrusting upon it a whole new set of expectations. Moreover, the master planning device necessarily has a great potential to bring higher education into the political arena because all issues are on the table simultaneously, provoking much more intense activity from a very wide array of interests.

The mandate to the Postsecondary Education Commission to develop a five year plan, with annual revisions, has yet to be tested in practice. It does offer in theory the possibility of "incremental master planning" which does not threaten to bring higher education as fully or as often into the center ring of legislative activity. Yet it still assures, because legislative and executive appointees dominate the Commission and because most Commission recommendations will require statutory or budgetary inplementation, that state government will retain responsibility for major policy departures in higher education.

Statutory Regulations. In the civics texts, state policy is made by the enactment of laws. This technique is obviously available to the Legislature and Governor for dealing with higher education policy questions. But I have previously suggested that there are important reasons for state officials to prefer the budget bill as a vehicle for imposing regulations on higher education. In addition, the special constitutional status of the University of California prevents the Legislature from regulating most of UC's internal affairs by law.

The traditional lawmaking process does remain the pathway for regulation of high education in many circumstances. Legislators who do not have influential positions in the budget process may be forced to rely on the introduction of bills. Moreover, some regulatory measures are introduced primarily as a response to constituent requests or pressures. If the legislator is not deeply committed to such a proposal, he may prefer to introduce it as a bill: it has higher visibility in this form ("I introduced a bill . . .") and it is less likely to pass. A bill is always preferable for permanent policy changes, since each year's Budget Act is superceded by the next year's Act. There are, in addition, some matters which simply cannot, because of their subject matter, be shoe-horned into the broad definition of a budget. Finally, the California Constitution provides in Article IV, Section 9 that a statute embrace a single subject only; and the Legislative Counsel has pointed out that this provision precludes the "Legislature from appending to appropriations made by [the Budget Act] conditions and limitations going beyond the immediate fiscal concerns and extending into the realm of independent statutory law."[28]

The Legislature does not provide a catalogue of bills introduced or enacted by subject matter. But legislative documents do provide a subject matter index to bills and their various sections. The number of entries in the index may, therefore, provide a crude measure of the volume of legislative activity, measured by the number of bills and the complexity of those bills. In the 1965 index, the heading for "State Colleges" was followed by 177 entries: 115 references to Assembly Bills, 46 to Senate Bills, 9 to Assembly Concurrent Resolutions, 5 to Senate Concurrent Resolutions, and one each to Assembly and Senate Constitutional Amendments.[29] Under the heading "State University and Colleges" in the 1975-76 index are found 164 entries: 113 references to Assembly Bills, 37 to Senate Bills, 11 to Assembly Concurrent Resolutions, and 3 to Senate Concurrent Resolutions.[30] It is reasonable to conclude from these numbers that the gross volume of legislative attempts to regular higher education through the lawmaking process has not increased in a ten year period. The slightly larger number of index references in 1965 than in

1975-76 was probably accounted for by a relatively large number of bills introduced to address various kinds of campus protests.

A separate tally of the volume of legislation affecting the CSUC produces a similar result.[31] The CSUC Office of Governmental Affairs, its Sacramento lobbying arms, reported that in the 1977-78 legislative session it had promoted the Trustees' legislative program of eight bills and had been taken positions on 90 other measures which directly or indirectly affected the CSUC. Some of these bills were heroic in their effects, such as AB 1091 which extended collective bargaining to the University of California and the CSUC.

Very few of the measures listed by the Office of Governmental Affairs constituted an intrusion into the internal affairs of the CSUC that violated the presumed special expertise of the governing board over curriculum, faculty qualifications, and other core educational matters. A bill to give final authority in grading to individual faculty members, thus eliminating student grade appeals to faculty committees or academic administrators, was such a measure. A number of the bills on which the CSUC representatives appeared were general legislation which importantly affected higher education. Measures prohibiting discrimination against the handicapped or the aged are examples. A large number of measures were concerned with defining residency status for admissions purposes, with various incidental fees, with the qualification of elementary and secondary teachers, with financial aids or benefits, and with related higher education agencies (such as the Postsecondary Education Commission or accrediting groups) whose activities bear on the CSUC.

A last approach to assessing statutory regulation again relies on a report by the CSUC Office of Governmental Affairs.[32] The staff prepared "a synopsis of those bills considered during the second half of the 1975-76 legislative session and 1976 budget items which represented erosion of Trustee authority." These numbered 49 bills and resolutions, of which nine passed without amendments eliminating or modifying the offensive language, and five budget control items. This report's definition of what erodes Trustee authority is obviously very broad; and more detached observers might well find many items listed that do not appear to intrude upon areas in which governing boards have traditionally been thought to have special expertise or where their authority was essential for protecting academic freedom.

In light of the state's history of master planning, was it an erosion of Trustee authority to propose that nontraditional admissions criteria be used to admit a minimum of 8 percent and a maximum of 12 percent of all entering students? This proposal is only marginally different, for instance, from a recommendation of the Joint Committee on the Master Plan, described in the preceding section. Is it an improper legislative initiative to authorize the issuance of a teaching credential in dance? And why should it be regarded as an intrusion on Trustee authority to require that meetings of accrediting bodies be open to the public when the accreditation of particular institutions is being discussed? Similarly, various measures providing for legislative review of state agency regulations reflect the growing concern by elected officials about the scope of policymaking by all administrative agencies, and this can scarcely be seen as some special attempt to restrict or intrude on higher education.

On the other hand, some of the enacted measures plainly do ignore the presumed expertise of governing bodies and their chief officers. Why should the Legislature order that California State College, Sonoma be renamed Sonoma State College? A far more important and far reaching measure codified Trustee rules that faculty and staff lay-offs should be based strictly on reverse seniority order. This legislation passed at a time when the Trustees were considering modifying their regulations to allow program need and faculty qualifications/credentials to be considered in making lay-offs. The legislature's determination prevented the Trustees from making decisions about the qualifications of faculty who would teach if declining enrollments or budget cuts required a reduction in staff. The Legislature's policy also disallowed Trustee determinations about the curriculum, since seniority lay-offs might leave academic areas without specialists in some subdisciplines while continuing the services of more specialists than necessary in other subjects. Another measure permitted higher education employees to inspect and obtain all materials pertaining to that employee; this provision was widely seen as jeopardizing the ability of universities to obtain independent, confidential external evaluations of faculty credentials during the tenure and promotion process.

The impact of state government regulation through lawmaking is plainly not the volume of measures introduced or passed. Rather it relates to the quality and scope and effects of those measures. We have no adequate yardstick to compare recent statutory regulations with those of a decade or two decades ago. But a brief review suggests that in at least each legislative session several bills pass which seriously restrict the ability of higher education governing boards to make decisions which are essential and central to the teaching, research, and service functions of universities. Most of these measures seem to deal with personnel practices, although some mandate or prohibit the establishment of new programs or curricula.

Formal Budget Controls. As previously indicated, the budget has become the main device for state government control over higher education. The budget process, which begins with the formulation of budget requests and ends when the last expenditure is audited, is a highly complex and interrelated set of events, words and actions. It cannot be clearly divided into its component parts, because each phase and each action is colored by precedents and history as well as by anticipations of future relationships with the same people, issues, and documents. It is useful, nonetheless, to try to highlight the extensive control that is exercised through the budget process by describing several specific aspects. Sometimes these descriptions must generalize to the point of banality, because the way in which any particular stage of the budget process imposes controls is specific to the issues involved.

In considering the budget process, I have rather arbitrarily divided the techniques of regulation into formal and informal devices. The former are those which are established by law or regulations; and they typically are enunciated in state documents which have legal standing. The informal devices may be written, but are more often oral, and they supplement that which is provided by law or regulation. The informal devices, as I shall emphasize later, are especially worrisome because it is difficult to discover their true terms, to fix responsibility for their adoption or administration, or to apply them in a uniform and consistent manner.

California employs the line item budget which specifies the funds available for each type of activity. Hence, in the 1978-79 CSUC budget, sums are provided for "instruction," "organized research," "public service," "academic support," "student service," "institutional support," and "independent operations." Lines were also included for various reimbursements and for federal funds anticipated. Because of its special constitutional status, the University of California is not bound rigidly to the line item budget; the constitutional permissibility of budget control language has been a major controversy between the legislature and the University, and we shall explore this issue more fully in a subsequent section. For the institutions without constitutional protection, the issue of fiscal flexibility looms large. Their authority to transfer funds from one budget line to another varies from one Budget Act to the next. In some years such transactions require approval by state agencies, such as the Department of Finance. In others, considerable discretion is awarded to the governing board and its central office. Hence, in the 1978-79 CSUC budget, funds in the various lines "may be reallocated upon order of the Trustees of the California State University and Colleges subject to being reported to the Department of Finance. . ."

The Budget Act also includes formal control language which mandates that certain sums be used for specific programs, prohibits certain fund transfers between lines, and specifies other conditions or restrictions of expenditure. Turning again to the 1978-79 CSUC budget, one finds the following useful illustrations:

> no instructional faculty positions authorized for the 1978-79 fiscal year shall be used for administration, administrative assistance, department chairmanships, or noninstructional research.

> no portion of the funds appropriated . . . for instructionally related activities may be expended for intercollegiate athletics.

> $605,442 of the amount appropriated . . . is to be expended for the differential cost for a reduced student-faculty ratio for the remedial writing program.

> the $100,000 appropriated for the Student Affirmative Action program shall not be released for expenditure until a detailed plan has been reviewed and approved by the Director of Finance.

A second formal control device is the supplementary language expressing intentions and recommendations of the budget conference committee.[33] In a narrow legal sense, this language is not binding. In fact, however, it has full force, even though it was never passed by the Legislature or approved by the Governor. Although the legal distinction is immediately mentioned by staff members of legislative committees and the Analyst's Office and by officials of the Department of Finance, all concede that politically the language is binding. If it were not followed, staff members would not only report this noncompliance in the next budget cycle, but they would be likely to make a considerable issue of it. Staff have a special interest in supplementary language since they usually draft it with little oversight from legislators and if often reflects issues or concerns which they initially raised.

Higher education officers must anticipate that most of the same staff and many of the same legislators will sit in key spots during the next budget cycle. Their prestige and credibility as well as their policy preferences are invested in the previous year's supplementary language. They are likely to find ample ways to penalize contumacious state agencies. The recommendations of the budget conference committee, therefore, are de facto, even if not de jure, binding.

The number and the scope of budget statements of intent have grown dramatically in recent years. Indeed, it appears that formal budget control language has grown little, and that the real extension of legislative regulation has occurred through the special supplementary language. In the early 1960's there was no practice of imposing budget restrictions through supplementary language. This regulatory device apparently developed in the mid- and late-1960's as the Legislature, under the leadership of Speaker Jesse Unruh, began developing improved ways of assuring that legislature intent was enunciated and followed. In 1971, there were nine CSUC items in the supplementary language (two were on the same subject); three asked for reports and one more required a study. In 1978, there were 34 items; 25 were in the CSUC section of the "Supplementary Report," six related to CSUC appeared in the section on the Postsecondary Education Commission, and three others appeared in the University of California section of the Report. Sixteen reports and two studies were mandated.

The nature of these regulations is probably best understood by citing pertinent examples.

> The CSUC shall declare a moratorium for the year 1978-79 on any campus policies which exclude a temporary faculty member from the applicant pool for a temporary appointment solely on the basis of the number of years served on the campus, who would be replaced by a faculty person performing the same function. This moratorium, which removes any restriction on making an appointment of an individual to a temporary faculty position solely because of the number

of years of previous service on a campus, is intended to support the CSUC Trustee policy of appointing the best qualified person from an open applicant pool. No appointment made under this moratorium shall be construed to confer security of employment on anyone.

The Chancellor's Office shall report by December 1, 1978, and annually thereafter, to the Joint Budget Committee and legislative fiscal committees on the number of FTE participating in off-campus instruction in the past year and as estimated for the current year and budget year. The report should separately identify off-campus FTE by campus and by category (individual, course, campus-based external degree and consortium based external degree).

It is legislative intent that the CSUC authorize the granting of student credit units for remedial writing course work within existing degree requirements.

$1 million of the funds appropriated for library development may be expended only upon approval by the Department of Finance and the Legislative Analyst's office of a plan for library automation.

> The Chancellor's Office shall return all writing samples completed as part of the English Placement Test (EPT) to the students' home campus for use in developing an appropriate program for the individual students' remedial writing needs.

> Prior to implementing budget reductions, it is recommended that the CSUC consult with students, faculty, and staff.

The reporting items are difficult to quarrel with, since the Legislature presumably has a need to understand whether authorized funds were spent for mandated purposes and whether they were spent effectively. It should be pointed out, however, that the reports on the uses of appropriated funds involve enormous expenditures of staff time and are additional to audits by four separate agencies as well as on-going policy inquiries from the Department of Finance, the Legislative Analyst and the staffs of legislative committees. The restriction on funds for library automation arose from an adverse audit report citing the virtual failure of an already existing multi-million dollar program of automation. But the restrictions on hiring practices and the mandate to award credit for remedial writing courses, a policy opposed by the Statewide Academic Senate on the ground that remedial courses do not constitute university-level work, seem to intrude into personnel selection and curriculum policy which have long been thought to lie within the special expertise of governing boards, taking advice from faculty and academic administrators, and which boards have been presumed to insulate against political interference.

A quite different form of budget control, which was previously mentioned, lies in the hands of the Department of Finance. This is the authority to approval specific expenditures. Even within budgeted funds, the purchase of many goods and services must receive prior approval from the Department's staff members. On some occasions, this approval power has apparently been used systematically to slow expenditures, thus increasing the "float" in the state treasury and the return on that float from investment income and interest. The disruption of the educational program which was temporarily denied needed goods and services is no small consequence. Moreover, the cost of processing many purchase orders through campus, system, and Department of Finance purchasing officers is costly in time, energy, and morale.

A related set of formal budget controls are requirements that certain kinds of purchases be made from state agencies, unless special waivers are obtained. Although the purchase of automobiles through the General Services Administration and printing and related services (e.g., book and periodical binding) through the State Printer is presumably less expensive than similar purchases from private supplies, a number of campus studies have shown that such costs are actually higher. This amounts, therefore, to a forced reduction in the higher education budget, since funds expended for the artificially high prices or the mandated service charges of state government providers cannot be spent for other educational needs.

Still another set of restrictions relates to fiscal flexibility. The approvals required for the transfer or alternate uses of funds changes from budget to budget, as previously indicated. In 1978-79, the Legislature expanded previous practices granting the Department of Finance control over state agency budgets. The post-Proposition 13 budget for state agencies continued to be larger than the Legislature and Governor thought desirable. Instead of making additional reductions, they authorized the Department of Finance to cut $54 million from state agency budgets in its own discretion. Although the Department did not do so, it was awarded the authority to say how the cuts would be made and from which specific budget lines. This put the Department in a position not only to determine the size of educational budgets but also to decide which specific budget lines and programs would be reduced. Hence, even within appropriate funds, there is a further budget process administered by a state fiscal agency. These seeds for new agency control of specific operations and educational programs are unlikely to die in California's rich regulatory soils.

A last formal fiscal control device is the audit. This is common in private as well as public institutions. The special character of the California system is the multiplicity of audits and their policy orientation. Institutions may be audited in one form or another by the Department of Finance, the Legislative Analyst, the UC or CSUC system office, and in the case of the CSUC, a separate group of auditors who work independently for the Trustees.

Past experience shows that these auditors do not limit themselves to reviewing accounting practices and to assuring against the misuse of funds. Many audits seek to impose policy preferences. A recent example involves campus auxiliaries, usually foundations. The question raised is whether a foundation or other auxiliary may retain surpluses earned from sponsored activities in campus facilities after the state treasury has been paid the rent and other charges that would be charged another entity (a student or faculty organization) using the same facilities. Obviously, various departments, institutes, and centers as well as the universities themselves sponsor activities to earn funds to support programs at levels beyond the base budgeted by the state. No question was raised about the propriety of the uses of the surplus funds; all were for educational purposes. But unclear provisions of the Education Code were interpreted to require return of all earned funds to the state treasury. It appears a policy matter, not an audit question, whether universities should be permitted to amass discretionary funds for educational purposes through auxiliary-sponsored activities. Once again, this is a significant form of budget regulation, which is imposed by state administrative agencies instead of by elected policymakers.

One additional aspect of these audits deserves mention. Audit report narratives have become increasingly colorful, often conveying an impression of misconduct where there is only a difference of interpretation of regulations or where funds are fully accounted for and properly spent but recorded in a manner with which the auditor disagrees. Among the several different audit agencies, there is no agreed system of accounting; and no interpretation of state accounting regulations is therefore going to be free of criticism from one or another of them. Even more troubling to higher educational institutions are inconsistencies within the same agency; the budget staff in the CSUC Chancellor's Office or the Department of Finance may advise a campus that a certain expenditure or fund transfer is appropriate, but later an audit team from the same agency will issue an adverse audit letter on the very same "appropriate" transaction.

The adverse tone of many audits may be prompted by essentially political factors. Higher education is a popular target. The audit agencies must each prove to their respective principals that they are keeping miscreants, actual or potential, in line. And the competition among audit agencies for staff, budget, and credibility may lead them to portray their findings in ways that magnify their apparent importance. The implications for higher education are plain: there is in fact no way to avoid adverse audits, and the impression spreads that higher education is at best irresponsible and at the worst corrupt in handling appropriated public money. Hence auditing is a form of regulation which has very real implications for the level of fiscal support and the degree of fiscal flexibility that is likely to be extended by public officials to higher education.

Informal Budget Controls. An enormously complex body of funding formulas has developed for budgeting higher education in California. These formulas do not have legislative approval, and they are nowhere displayed in budget documents. But they have been devised either in negotiations between higher education systems and the state budget agencies--the Department of Finance, the Legislative Analyst--or by higher education systems alone as mechanisms for the internal allocation of budgeted resources. Despite their lack of formal legal status, however, the formulas are a reality with the force of law.

The prevalance of formularization is greatest in the CSUC, which lacks the constitutional preogatives of the University of California or the home rule independence of the community colleges. More than three hundred formulas prescribe the distribution of faculty positions, clerical and technical staff, administrative officers, department chairs, library books and periodicals, librarians and media specialists, janitors, square feet of laboratory, lecture and office space, and virtually every personal service, commodity, or cash account used by campuses.

Interviews with state agency staffers made clear that these were "agreed" formulas which the CSUC could not change without consultation. Since these formulas are used to calculate what total level of support will be recommended in each budget line, the necessity for budget officers to retain approval authority is obvious. But even when formulas are revised to redistribute existing levels of resources in different ways, such approval is required. State budget analysts plainly fear that revised formulas which today remain within budgeted resource levels may later require substantial new allocations.

The basis for the hundreds of budget formulas is mysterious. Often they are simply devices for justifying levels of expenditure that are preordained by the exigencies of the state's fiscal condition and the priorities of the Governor and Legislature. In this sense, the formulas are elaborate justifications for budget ceilings. During the era of rapid expansion, the CSUC often found the formula-ceiling device useful, because once a formula was in place it promised to generate additional resources as growth occurred. This was not always successful, since in numerous instances new formulas were "negotiated" upon the insistence of state budget agencies pressed to make ends meet.

The relationship of any of the formulas to educational programs, as opposed to fiscal and budget balancing needs, is doubtful at best. A CSUC faculty member who served as a California budget analyst has pronounced this harsh judgment:

> In order to satisfy the ceremonies of being scientific or objective, fiscal experts have developed a variety of formulas which they apply to state college financial affairs. These formulas are often completely arbitrary and frequently come off the top of someone's head; when inquiry is made into their derivation and what criteria were used to develop them, it is often apparent that their only justification is habitual usage. But they are there, and budgetary ritual requires their use.[34]

Although this comment was aimed at state budget analysts, it should be acknowledged that many formulas are initiated by the staff of the higher education system offices. For them, written formulas make regular the internal allocations among institutions and act as a shield against criticism or appeal by individual campus constituencies.

A continuing issue in California higher education budgeting is whether funds generated by formula must be used on campus for formula purposes. The funds must remain within the item budget lines, unless approval is obtained to transfer them. But must funds generated for library books under the appropriate "informal" formula be used for that purpose? Or does the campus president have authority to take funds allocated by formula and reallocate them according to his own priorities or formulas? In fact, there has been a large measure of campus discretion in the reallocation of formula-generated funds.

The mere existence of formulas, however, tends to create pressures for greater rigidity. When a particular campus constituency does not receive the full amount generated by formula, because the president selects to make alternative program decisions with those funds, it immediately demands to know where "its" funds have gone. Since the constituency can point to the formula, this creates an impression that funds are somehow being improperly applied on campus and throws university administrators on the defensive. There is, therefore, an implicit pressure to use the funds as they are generated, regardless of how inappropriate this may be for the educational program of the campus. Moreover, there has been in recent years a tendency for state control agencies or the system offices to yield to pressures from campus constituencies which insist that controls be imposed to assure them "their share" of funds generated by formula.

Several years ago a number of faculty positions were diverted to administrative duties (such as department chair activities) on several CSUC campuses; since that time the Budget Act has required that all faculty positions generated by formula be used for classroom instruction. Equal Opportunity Program funds are similarly restricted, as a result of pressures from minority groups and the campus managers of those programs. In 1978-79 the formula-generated funds for library books cannot be used for any alternate purpose, even within the library itself.

Since campuses have widely different educational programs, their needs are quite different. Yet the formulas generate resources without regard to qualitative differences between the campuses. As funds are increasingly restricted to uses dictated by formula, the ability of campus officials to support high quality programs or specialized programs is eroded. And plainly such a budget trend precludes campus administrators from following a well-understood higher education strategy of investing funds in "targets of opportunity" by giving richer support to promising or high quality or high need programs than to others which are unlikely to grow or to be excellent.

A much less complicated informal control is the letter of intent. This device is used primarily by the University of California, although there are recent examples in the CSUC also. State fiscal agencies or legislative committees often suggest that control budget or supplementary language be developed to regulate how the University of California will use its funds. Sometimes their interest is in compelling the University to conduct a study or to report certain data which the state budget agencies are unable to develop. At other times their goal may be to force some substantive policy on the University.

The University, of course, wishes to avoid as much regulation as it can; but it also recognizes the inevitability of meeting some legislative demands. Moreover, both state agencies and the University seek to avoid a showdown on the scope of the University's constitutionally guaranteed autonomy. A practice has developed, therefore, in which certain questions or issues raised by state agencies or legislative committees are not incorporated into budget control or supplementary language in exchange for a letter of intent from the University declaring that it will undertake the report, study, or program sought. In practice the University has been reasonably willing to provide such letters when studies or reports are sought, but it has so far yielded only rarely when asked to commit itself to specific educational programs.

The volume of letters of intent cannot be ascertained since they are typically kept in agency or committee files, and no formal inventory or index is kept. The number of such letters is apparently growing, however, since both state government staffers and University officials mentioned them prominently in interviews. Some concern should be expressed about this device, since it is a form of control which avoids wide public notice, which is not deliberated upon by the Legislature, and which is typically not presented as a policy question to higher education governing boards. It is another of the increasing number of controls which are not only informal in character, but which are imposed by individuals with little or no formal legal control authority. It is a device used by a staffer, without reference to his accountable principal, or by a committee or committee members, without reference to the full Legislature, or by a higher education official, without deliberation by his governing board. While the letter of intent avoids unnecessary conflict in the short run, it is a practice which promises in the long run an increased volume of regulation by a steadily proliferating number of state agencies, legislative committees, and individuals.

An informal control device whose prevalence and effect is even more difficult to measure is political or policy advice. The relationship between state agency staffs, legislative staffs, and higher education staffs is close and continuing. They necessarily confer regularly about administration of the current budget and preparations for the next. In the course of such conversations it is natural and perhaps necessary for higher education staff members to seek advice from their state government counterparts about the administration of the budget and its various authorizations and limitations. Once advice is sought, however, there is a presumption that it ought to be followed. If it is not accepted, the state government staffs may point out that higher education administrators strayed from the "intent of the legislature" or acted contrary to the "recommendations of legislative staff." The opportunity for staff members to provoke legislative outrage on a wide range of issues is always in the background of their advice, and it is not therefore lightly to be ignored.

A useful case study in advice giving occurred during the 1978-79 budget process. The CSUC Chancellor promulgated a report in 1977 which encouraged campuses to offer courses at off-campus locations. This report was the product of several years of study by a systemwide committee, and its motivation was some mix of higher education missionary zeal and self-preservation. The education budget subcommittee in the state senate treated this expansion of state-financed off-campus education with suspicion. It feared that off-campus courses would interfer with the adult education mission reserved to the community college segment, that it was a "body-snatching" enterprise intended to generate additional FTE and thus additional support, and that it promoted nonacademic, primarily recreational coursework.

The Assembly Ways and Means subcommittee supported off-campus coursework, consistent with Assemblyman Vasconcellos' vision of a "fourth segment." The budget conference committee deadlocked on the issue, but the Assembly was forced to yield in the face of the vehement opposition of the Senators, who threatened to withhold their votes from the budget. A compromise was reached in which the CSUC was prohibited from enrolling more FTE in state-financed off-campus courses than it had enrolled in 1977-78.

The Chancellor's Office, surprised by the vehemence of the senatorial position, issued an executive order banning all new off-campus courses or any courses at new locations. This went farther than a limit on FTE, and campuses complained that such an order issued in July would require the closing of scheduled courses in which students had already enrolled for September. A CSUC staff member approached a member of the Legislative Analyst's staff for advice in a hallway during a legislative hearing on an unrelated matter. In a brief and informal conversation, the Analyst's staffer warned that politically it would be unwise to make any change in the status quo from the previous year even though the supplementary budget language restricted only the FTE enrollment. On the basis of such informal advice, plainly reflecting the preferences of only one house, the Chancellor ordered a campus president to cancel classes in which students had already enrolled. In response to campus protests, the Chancellor's staff cited the "advice" of the Analyst's staff as "politically binding."

Even more than letters of intent, this kind of informal regulatory device violates well-settled expectations about policymaking: that the Legislature makes laws, that budgets and binding rules should take a written form so they can be scrutinized, that agencies and individuals cannot be held accountable for instructions that are not given through known rule-making processes, and that policy decisions should be made and promulgated in a format that fixes responsibility on those who made them. In the example previously cited responsibility was variously fixed on the senators' intent, the Legislative Analyst, and the Chancellor's staff. It is clear, moreover, that the operative public policy was quite different from that which appeared in writing in public documents. And, finally, this is a case of budget regulation which did directly affect specific courses for specific students, matters ordinarily thought within the jurisdiction of governing boards.

Legislative Hearings. Committee hearings have long been a useful regulatory device on both fiscal and substantive policy matters. They express the concerns of legislators to state agency leaders, and they are useful for oversight of policy and administration. Legislative hearings in California serve these purposes. But under the leadership of Assemblyman Vasconcellos, hearings in California have taken on a special character which merits additional notice.

As previously pointed out, Vasconcellos is chair of both the Permanent Subcommittee on Postsecondary Education of the Assembly Education Committee and the Ways and Means subcommittee which reviews the higher education budget. He has chosen to use the latter subcommittee as his primary vehicle for policy deliberations. Its sessions do not follow the traditional pattern of examining the financial needs of higher education, scrutinizing particular program requests, and delving into fiscal practices. The hearings are, instead, announced and conducted as policy hearings. Hence, the budget subcommittee may consider the impact of agricultural research at the University of California, Davis on the employment and working conditions of farm workers; the military implications of nuclear research conducted at the University's laboratory installations; student and faculty affirmative action; and so forth. Some issues--such as nuclear power research, which is funded almost exclusively with federal funds--are only indirectly related, at best, to the state Budget Act.

The position apparently taken by Vasconcellos and his staff is that budget hearings are appropriate forums for the discussion of any policy matter. The constitutional autonomy of the University, they point out, severely reduces the opportunity for scrutiny of educational policy; since the budget authority is plainly vested in the Legislature, the budget process becomes the best forum for legislative concerns about educational policy. Moreover, the budget subcommittee meets regularly because the state budget process has fixed deadlines, and committee members tend to give budget hearings a high priority. Thus attendance is assured, and ample time exists for appropriate discussions. The fact is not lost on higher education representatives that policy hearings held in conjunction with the budget contain a heavier implicit threat than the usual legislative proceedings: unresponsiveness to committee policy demands may trigger unrelated but nonethless painful budget cuts. Finally, the budget subcommittee is somewhat better staffed and this supports the kind of rigorous scrutiny of higher education policy that Vasconcellos propounds.

Most criticisms of the Vasconcellos hearings are specific to the chairman's style. Vasconcellos is described mercurial and sometimes vituperative; his hearings have a reputation for degrading and insulting higher education witnesses. It is said, also, that Vasconcellos permits almost anyone, including those who are virtually professional critics of institutions, to obtain priority placement on the calendar. Since he does not put these witnesses to the test of justifying and supporting their allegations, a flood of erroneous information hostile to higher education fills the committee's proceedings. The higher education representatives are then on the defensive to provide balancing information about a wide array of criticisms. It is argued that the Vasconcellos strategy of giving noninstitutional witnesses a preferred place on the calendar often means that when higher education representatives finally give their testimony it is in a context poisoned by hours of criticism. Finally, Vasconcellos is characterized as a poorly organized chairman; his own emotional statements and the rambling criticisms by anti-education witnesses exhaust available hearing time, forcing higher education witnesses, including campus faculty and administrators from across the state, to return time and again in order merely to put in their testimony.

Some criticism of the policy-style budget hearings go beyond the particular methods of Assemblyman Vasconcellos. These raise the question whether policy-style budget hearings would create a circumstance in which additional regulations of higher education would be probable. The University of California insists, of course, that the policy hearings are irrelevant, since sole authority to make educational policy lies constitutionally with the Regents. Vasconcellos' staff takes the position that the hearings, at a minimum, inform the University leadership of legislative concerns so that the Regents can take those concerns into account as they make educational policy. At its farthest reaches, the Vasconcellos position is one of absolute legislative supremacy. The policy hearings may demonstrate the need to add budget controls and conditions to appropriations, and Vasconcellos has suggested a wide range of such measures.[35] The committee staff position seems to be that higher education should be responsible to the public, which speaks through the Legislature. No legislative self-restraint is implied, they believe, in the constitutional autonomy of the University. Whatever can be accomplished within the Constitution should be, and the committee hearings are a step toward appropriate regulations.

It has also been argued that the policy hearings prevent higher education from explaining its budget and its needs to members of the lower house. The budget process, it is said, has traditionally been an opportunity for higher education (and other agencies as well) to state their needs and explain their programs. It is subject matter committees, which consider bills largely sponsored by those outside education, that should review major policy issues and consider major policy criticisms.

The merger of the work of the two committees and the initiation of policy hearings, in short, cuts off the major legislative forum in which higher education has made its plea for state resources. Moreover, if the budget committee becomes mainly occupied with policy issues, often only tangentially related to the budget, formulation of the budget itself and especially its growing maze of conditions and restrictions falls more and more into the hands of the staff, which may or may not act the way an informed Legislature would might. The opportunity for higher education to seek redress from regulations imposed by budget agency staff is also reduced when budget hearings dwell mainly on nonbudget issues. A number of these criticisms have at least some facial validity which ought to be considered in evaluting the impact budget committee adoption of a policy-hearing strategy.

Political Rhetoric. One other criticism of the Vasconcellos committee strategy raises a broader point: is additional regulation of the higher education an almost certain consequence of officials' decisions to make higher education a central issue in legislative debates? For long decades there was a substantial body of opinion that higher education should not be debated in campaigns and that it was not a "political issue." There was, of course, a competing tradition in which politicians flayed universities as hotbeds of free sex (to make a pun), communism, atheism, and so forth. The former view was undercut substantially by the response on campuses in the 1960's to highly visible political issues--such as American policy in Southeast Asia or claims by racial minorities. Nonetheless, a question remains whether one implication of drawing higher education policy more visibly into political debate is not to render it more vulnerable to regulation and indeed to make such regulation seem necessary.

Higher education representatives generally concede that Vasconcellos is strongly committed to providing university opportunities for the public. The budgets recommended by his subcommittee are typically quite generous. But in addition to his desire to shape higher education policy, Vasconcellos' rhetoric and the hearings he conducts are of considerable concern to higher education officials. The sharply critical tone of almost all of Vasconcellos' utterances and of the hearings he holds has the long-term effect of undermining public confidence in higher education. In the shorter term, the Vasconcellos rhetoric and hearings have results that he himself might not intend. By weakening the credibility and standing of higher education, he emboldens opponents in the Legislature to cut budgets and enact restrictive legislation. Moreover, the tone set by Vasconcellos encourages legislative and executive agency staffs to impose their own policy preferences on higher education by the reports they prepare, by the regulations they suggest, and by the other substantial means readily available to them.

Similar effects occur when politicians make higher education a major campaign issue. Although Clark Kerr could scarcely be regarded as neutral in his appraisal of Governor Reagan, he did make this point with great force about Reagan's 1968 gubernatorial campaign and his utterances once in the executive office.

> In the 100 year history of the university,[Reagan] has been the least supportive governor . . . . if you read the history books, you wouldn't find any governor who had exploited the university as a political issue until Reagan . . . . Reagan has attended almost every Regents meeting and he brings TV with him . . . . he uses the Regents meetings as a forum for political activity. He has used the Regents meetings as a forum for politics much as the radical kids used Sproul Hall Plaza.
>
> . . . It was certainly intentional for the governor to use the university as a political issue, and that is punitive.
>
> He not only built on popular public concerns; he increased them greatly by what he said. So it wasn't just that he was responding to popular passions of the moment. To some extent, he created them by what he said.
>
> . . . The university is in a much better position to withstand the radical student on the inside than it is the governor on the outside, who controls the budget.

> . . . These [criticisms] of the university were building up for a long period of time and Reagan was astute enough to build upon all this politically.[36]

The point seems clear enough that the rhetoric of leading government figures--such as the governor or the chair of a key education committee--necessarily contributes to a mood which shapes decisions by the public in the long run and by legislators, executive officials, and staff members in the immediate term to regulate or restrict higher education policies and operations. It is true, on the other hand, that higher education expenditures are the largest item in the state agency budget and that universities are among the most important public institutions. It is an improbable argument that legislative proceedings and, indeed, political campaigns should ignore so important a state government activity simply because of the potential secondary effects of political rhetoric.

The Potential of Collective Bargaining. In 1978 the California Legislature enacted a collective bargaining law for higher education. The impact of collective bargaining on state government regulation of higher education can only be speculated about. More can probably be learned from states that have considerable experience with collective bargaining. It may be useful, however, to sketch the two quite different anticipations that have arisen in California about collective bargaining's potential impact.

One school of thought anticipates that collective bargaining will substantially reduce state regulations. The contract will supercede most state statutory regulations, and a strong management rights clause or specific clauses gained by either side might wipe away extensive legislative regulations. Higher education officials anticipate this effect in faculty and staff personnel policies, where the Legislature has over the years responded to constituency pressures by restricting the authority of higher education managers.

The rigidities of the line item budget may also be weakened, because the Governor and the Legislature must necessarily conceal in the budget the funds they project for contract settlement. A line item budget makes such concealment difficult, and the tendency to use broader lines or to shift to program budgeting is great. Even if the minimum step of broader lines is taken, this gives higher education systems much greater discretion in using appropriated funds. Finally, of course, collective bargaining provides institutional leaders with an important argument against legislative intervention in response to faculty or staff pressures for new restrictions on the discretion of higher education management. "We should not give them this-or-that," the argument goes. "Let them ask for it in the next contract, so we can get something in return."

The other school takes the opposite view. Organized into unions, faculty and staff will be much more politically powerful and will be able to impose restrictions on higher education institutions in both the legislative and collective bargaining arenas. These observers point out, moreover, that the California statute, like the New York law, provides that a representative of the Governor may attend the bargaining sessions to advise the parties "on the views of the Governor on matters which would require an appropriation or legislative action." Representatives of the Speaker and the Senate Rules Committee may attend on the same basis. These provisions, it is argued, give real control of the "management" position to elected officials who are anxious to win political support from educators' unions and who, in addition, may be quite willing to trade off management control over higher education governance and programs in exchange for reduced demands for salaries and benefits in order to solve politically explosive state budget problems.

Both positions have a ring of plausibility. The former may be reasonable only in the California context, where regulation has become so pervasive that from a higher education perspective the issue is as much how regulation might be diminished as how it might be prevented. At this early time only one conclusion seems warranted: collective bargaining has the potential dramatically to reduce or to accelerate the extent of state regulation of higher education and the determinative variable is likely to be the posture taken by executive and legislative representatives during negotiations between faculty/staff unions and higher education managers.

Restraints on Regulation

The landscape of state politics is marked by few natural defensive barriers behind which higher education can take refuge from the steady advance of governmental regulation. One aspect of the California landscape--the constitutional autonomy of the University of California--is repeated in only a few other states. Colorado, Georgia, Idaho, Michigan, Minnesota, Montana, Oklahoma, and Nebraska apparently have varying degrees of constitutional protection of higher education. Other important restraints on state government regulation in California are the tradition and practice of local home-rule, the symbolic claims of the universities, the prestige of higher education, the political skill of higher education leaders, and the political power of university communities. Upon close examination, most of these restraints appear weak and are apparently becoming even weaker.

The constitutional autonomy of the University of California rests on Article 9, Section 9 of the Constitution which delegates to the Regents "full powers of organization and government" of the University and provides, moreover, that the University "shall be entirely independent of all political and sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs." Judicial opinions have from time to time described the University as "a constitutional department or function of the state government," "a branch of the state itself," "a statewide administrative agency possessing adjudicatory powers derived from the Constitution," and "intended to operate as independently of the state as possible."[37] An opinion of the Attorney General has referred to the University as a "branch of the state government equal and coordinate with the legislative, the judiciary, and the executive."[38]

In other clauses of the Constitution, state agencies are made subject to requirements prescribed by the Legislature for submission, approval, and enforcement of budgets. And the Governor has constitutional authority to require that state agencies provide information necessary for the preparation of the budget he submits and to reduce the amounts of legislatively enacted appropriations. The constitutional autonomy of the University is obviously in conflict with the constitutional supremacy of the Legislature and Governor in fiscal affairs.

The conflict between University independence and the lawmaking power, including the budget authority, of the elected branches has not been extensively litigated. The California Supreme Court struck down a Regent-required loyalty oath as a condition of employment on the ground that the Legislature had occupied the field by enacting an oath applicable to all state employees.[39] The decision seemed to turn on the Court's reasoning that "the loyalty of teachers at the University . . . is a subject of general statewide concern," and that legislative statutes enacted "under its general police power will prevail over regulations made by the regents with regard to matters which are not exclusively

University affairs." One implication of this language is that some definable category or list of matters are "exclusively University affairs" which the Legislature and Governor cannot regulate by statute.

A recent law review article by a law professor and vice chancellor at UCLA suggests a list of some "central functions" of the University which would not be susceptible to regulation by the Legislature and Governor. "Included [in such a list], for example, would be such matters as determination of the content of courses and curricula; requirements for degrees; conduct of research; establishment of policies and procedures concerning selection, retention, and conditions of employment of academic personnel; internal allocation of resources; initiation, administration, revision, and termination of academic programs; establishment of patterns of internal governance; and determination of at least the academic aspects of admissions criteria."[40]

The clash between the respective powers becomes plainest when the Legislature and Governor attempt to impose conditions on appropriations which touch on those areas which might be regarded as "central functions" of the University over which the Regents have "full powers of organization and government" and in which the University shall be "kept free . . . in the administration of its affairs." Two theories have developed about the manner in which this clash should be resolved. The position apparently taken by the University is that three factors which are commonly employed to resolve other separation of powers issues should be applied here also.[41]

First, if the subject is central to the functioning of the University as an educational institution, the presumption is that legislative or executive regulations are invalid. Second, in considering whether such regulations are valid, the degree of impairment of the "full powers of the Regents" must be considered. The greater is the impairment of the Regents' powers the more weighty is the assumption that the regulation is unconstitutional. Third, in assessing regulations about subjects central to the functioning of the university and which may impair its powers, the interest advanced by the act of the Legislature or Governor must be assessed. If the interest is "compelling," as that term is commonly used in constitutional law, the Governor and Legislature may be able to justify even those regulations which touch upon central functions and which substantially impair the powers of the University. From the University's perspective, these tests apply alike to budget control language and statutory regulation. Hence, budget control provisions designating a certain number of faculty positions to be committed solely to undergraduate instruction and providing that incumbents in those positions be evaluated solely on their undergraduate teaching effectiveness would be invalid under this reasoning.

The Legislative Counsel has taken a somewhat different position. While the Legislature cannot impose unrelated conditions upon a general appropriation, it can, in the Legislative Counsel's view, "validly condition an appropriation of a specific sum upon some undertaking by the regents if there is a correlation between the sum and the undertaking." Under this theory, "the regents would be given the option of performing the service and receiving the funds or of doing neither. Since the regents have the option of exercising a real choice, there would be no interference in the internal affairs of the university."[42] This view has been challenged by a University spokesman who has pointed out that the Legislature could completely control the conduct of University affairs, including matters central to its educational mission, by simply breaking down the budget into very small lines or program amounts and imposing relevant conditions on each such appropriation.[43]

A somewhat different question is whether legislative enactments of statewide concern or application prevail over the constitutional autonomy of the University. There is some language supporting this proposition in the loyalty oath case, briefly discussed above. But the argument is scarcely persuasive, since some statutes of general application might still regulate matters that are of the core of the University's educational mission and which therefore are presumably subject to the Regents' "full powers of organization and government." Moreover, it may be argued that the very purpose of the constitutional provision was to assure that the University was not treated like other agencies under laws of general statewide concern or application; the University was made constitutionally exempt from such regulations by the political branches in order to prevent their interference in its internal affairs.

In the absence of a definitive judicial decision, the impact of the University's constitutional autonomy has been symbolic and political. Its symbolic importance lies in the public assertion by the University, time and again, that legislative regulation would violate the letter and spirit of the Constitution. For constitution-minded legislators and staff members, this argument carries considerable weight. Both the Legislative Analyst and the Legislative Counsel have tended to urge self-restraint on the Legislature, citing the constitutional autonomy of the University. Moreover, the University's constitutional status may have an effect upon attentive publics and the media who, through approving particular regulations advanced by the Legislature and Governor, still hold to a view that "unconstitutional" exercises of power are a greater countervailing consideration.

The political aspects of constitutional autonomy are apparent. The Legislature may very well hold back from regulations which force the University to litigate. Unsure of the scope of its power, the Legislature wishes to avoid a judicial decision curtailing the influence it has been gradually gaining over the University. The University, too, wishes to avoid a judicial test, lest the justices conclude that the Legislature has sweeping power to impose controls and conditions on

University budgets. The Legislature and the University are reduced, therefore, to a game of constitutional "chicken." In one other aspect, constitutional autonomy has political effects: the constitutional issue is a plausible excuse for some legislators, who are reluctant to regulate higher education, to refuse the pleas of their powerful colleagues to join in budget control or supplementary language or in adopting separate regulatory legislation.

In recent months the constitutional sabre rattling by the University has increased markedly. A Special Committee on University Constitutional Autonomy was appointed by UC President David Saxon. Its report essentially endorsed a law review statement previously published by Harold Horowitz, vice chancellor and law professor at UCLA. President Saxon then incorporated its main recommendations into a major public address. Several observers believe that these maneuvers are preparation for litigation.[44]

The issue which the University had allegedly selected relates to the confidentiality of the names of external reviewers who provide information about faculty being considered for promotion or tenure. Presumably this issue puts the University on its strongest ground, involving its own personnel procedures, and finds the Legislature on its weakest ground, because it does not involve the Legislature's well-established fiscal authority. A recent interpretation of the statute giving personnel access to their records may, however, moot the potential litigation; it suggests have a right to know the source of information (e.g., a political science, or some other categoric description) but cific identity of the reviewer.

University has decided that regulation has become so pervasive st litigate, it is surely correct to select an issue whose facts are vorable to its cause. And, of course, if the strategic decision has been made to litigate, the mooting of the issue relating to confidentiality personnel files is, at most, only a temporary delay. A decision by the University to test the scope of its constitutional autonomy should certainly be read as a signal that state government regulation has become untolerable from the University's perspective and, moreover, that the normal political processes are no longer sufficient to devise acceptable compromises on the scope of legislative regulation of University affairs.

Little needs to be added about the importance of home rule as a barrier against regulation. The contrast between state regulation of community colleges and of The State University and Colleges is stark. The vital difference between them is that community colleges are seen primarily as a form of "local government," while the CSUC is envisioned as a state agency. The community college budgets have been predominantly supported from the local property tax, although between 35 percent and 40 percent of their funds have been received from the state. Many community colleges were originally governed by the local board of education. Most districts now have independently elected boards, although a handful continue in the old way. Presumably the local officials who serve on community college boards have an electoral base and are closely tied to the sources of community political power. This might well be a major barrier to large-scale state regulation. But this political factor was not often mentioned in interviews. Rather, community colleges were typically described as "local" or "self-governing." The strong impression was conveyed that the tradition of home rule and local control was at least as important, and probably much more important, than the community colleges' local political base in forestalling state regulation. The question remains open whether in the aftermath of Proposition 13, with the state funding as much as 80 percent of their budgets, community colleges will now be perceived as state entities, subject to more state government regulation.

The symbolic claims of universities are another barrier to regulation. Education should be "independent" of politics, the argument goes. Moreover, universities have generally established an image of requiring freedom to perform their important educational tasks. But the turbulence of the 1960's largely erased the nonpolitical image of universities. And the regulations of the 1970's, which are primarily managerial and fiscal, do not immediately strike the public as invasions of the teaching mission.

Nonetheless, some state officials continue to acknowledge the symbol of university independence, and this symbol therefore remains a residual limitation upon state government regulation of higher education.

The prestige of higher education has also tended to limit regulation. Few agencies in state government have had the prestige of the universities and colleges. Within higher education, various institutions have differential prestige. The University of California--especially at Berkeley and UCLA--stands out in California for its international renown. There is little doubt that the enormous prestige of the Berkeley and UCLA campuses puts them in a preferred position relative to the CSUC in resisting legislative regulation.

Despite the events of the past decade, vestiges of great prestige remain. The Governor seeks out professors to serve on boards and commissions. Legislative committee staffs do not regard a hearing agenda as complete unless there is testimony from one or more academic people. Campuses remain a desirable and prestigious forum for speech-making, honors and awards, and social occasions. Nonetheless, the standing of universities has been badly tarnished by the turbulence in the 1960's, by public impressions that faculty do not work very hard or very effectively, and by the declining economic worth of university education.

Soon after Governor Jerry Brown took office in 1975, a journalist reported that "When a Brown administration spokesman told a rally of protesting teachers on the Capitol steps in mid-February that education was important but no more important than health or welfare or unemployment, it provided a sense of deja vu for those who had heard [Governor Ronald] Reagan tell a delegation of college professors the same thing eight years earlier."[45] Later, Brown was to justify niggardly pay increases for faculty by telling them their jobs produced "psychic income." But the same journalist recalled that Reagan modified his initial hostility to higher education and even provided some major budget improvements. "Whether Reagan altered his approach because of a change of heart or because polls showed that attacking higher education no longer was popular, the attack did let up."[46]

A recent decline in Governor Brown's public scorn and sarcasm toward higher education may reflect a similar pattern. It may indeed be correct that assailing higher education is not politically productive. But the assertion that higher education is no more important than other claimants for state support is probably an accurate reflection that its long-time standing as the "most equal" of state services has ended. Higher education cannot, therefore, rely very heavily on its former prestige to protect it against the close scrutiny and intensive regulation that is applied to other state agencies and has been for many years.

Like other barriers to state government regulation of higher education, the political power of university communities has declined sharply. It is doubtful, at the outset, whether those affiliated with the state universities or community colleges were ever a major political force. Commuting students enrolled only part-time probably do not regard their colleges or universities as major political reference groups. Moreover, their dispersion over large areas virtually eliminates their visibility as a voting bloc. Even if their politics is guided by university issues, their power cannot be demonstrated.

Much of the same analysis could be made of community college and state university faculties. They have had, however, the additional influence that comes from being politically active. But even here, their importance may be declining as California campaigns become less reliant on traditional party organization activists and become more media and contributor oriented and more attentive to distinct, identifiable ethnic and racial blocs.

The residential campuses of the University of California are in a somewhat different situation. Certain legislators are plainly reliant upon bloc voting by students and faculty. Assemblyman Gary Hart, a young Democratic representative from predominantly Republican Santa Barbara, voiced concern on the Assembly Ways and Means higher education subcommittee about increased regulations and reduced appropriations for the University of California. The support of UC, Santa Barbara students and faculty is plainly essential for his political survival.

Even among legislators with substantial and identifiable university constituencies, the issue of regulation might not be salient, however, because university constituencies are badly fragmented. Both students and faculty may want more regulation of universities in those areas that protect their special, often conflicting interests. Hence, students want state regulations against tuition; some faculty might favor tuition if it saved academic programs or provided badly needed salary increments. Faculty organizations demand state-imposed lay-off procedures providing that any reduction in faculty must be by seniority; students may have a greater interest in a layoff procedure which saves particularly effective undergraduate instructors. The point is plain: with the fragmentation of university political power among many competing constituencies--faculty, students, staff, alumni, administrators--the issue of state regulation loses visibility and force. In a babel of competing claims, none is heard distinctly.

A word should be added about alumni support for higher education. Casual observers often talk as if alumni constitute a large and aware constituency that can be mobilized by leaders in higher education. There is little evidence to support this idea. And if it had once been true, events in the 1960's and 1970's have alienated a large body of alumni who believe that their universities have abandoned the wisdom of the past and have, moreover, become wasteful and arrogant. The real political importance of alumni seems much narrower. Well placed and important alumni--probably no more than a corporals's guard--are deeply involved with the universities, and they can be called on to exert their personal influence with strategically placed figures in the Legislature and executive branch.

The premier position of the University of California in higher education and its monopoly on professional education also means that it has a far more influential alumni than either the state universities or the community colleges. Many UC alumni are found in the key decision-making posts in Sacramento, and many more are among the states' economic and political elites. Although the alumni of both the community colleges and the state universities vastly outnumber those of the University of California, they are far less influential and also have a far smaller commitment to their almae mater. Indeed, the vast majority of the state universities and community colleges have had no effective alumni associations worth the name. When some institutions recently made efforts to form such organizations, they found that they did not even possess complete records of their recent alumni, much less such essential information as addresses.

In a way that is often overlooked, however, alumni have an important political role in higher education. The University of California has become rich partly because of the generous gifts of alumni to its endowment and its annual operating fund. This has permitted the University to resist some fiscal regulations by threatening to decline state funds with obnoxious conditions. This financial cushion serves as a bluff, rarely called by the Legislature, to "go it alone" if the state government declines to fund worthwhile activities. In the long run, the Legislature and Governor have usually felt an obligation to fund meritorious educational programs and have been willing to forego restrictions which would force the University to turn to its own discretionary resources to support valid state programs.

This has not always been the case. In 1967, Ronald Reagan forced the University to reduce its state budget needs by taking $21.5 million from so-called Regents' funds (discretionary nonstate monies); he threatened to impose even worse cuts in state funding if regent support was not forthcoming. Eventually, however, Reagan restored most of the cuts; and his heavy handed methods may have discouraged subsequent attempts to invade the discretionary funds of the University. Neither the community colleges nor the state universities have the important political advantage of massive discretionary gifts from alumni.

One factor stands out as increasingly important in blunting state government impulses to regulate higher education: the leadership skills of university representatives. In one interview after another, attitudes toward higher education were tangled together with evalutions of the leaders of higher education. There was general sentiment that the University of California's troubles in Sacramento had been deepened by President Saxon's neglect of legislative relations, by a governmental liaison team that was poorly prepared, and by a strategy of evading questions and issues. And there was a lively perception that in the two most recent years President Saxon had been making more contacts and that he had engaged in important symbolic functions in Sacramento, such as being present during a longer portion of the budget hearings even when he was not testifying. There was general appreciation also that he had improved the University's representation with the selection of Lowell Page as the full-time "lobbyist" and especially by putting Academic Vice President Donald Swain--regarded by virtually everyone as candid, well-informed, and open--in charge of most of the presentation of the academic budget.

A similar emphasis on personnel evaluations was apparent in interviews about the effectiveness of the CSUC. To a man, those interviewed complained that Chancellor Dumke was merely "a survivor" who made no effort to face new higher education challenges. There was general belief that he avoided liaison with state government because he perceived the political thicket in Sacramento as threatening his tenure. Moreover, legislators perceived that Dumke was uncomfortable with and indeed disliked legislators. One ten year veteran complained that he had never met the Chancellor, even though he had once made an overture to the CSUC's lobbyist in Sacramento. A prominent state senator did not know the name of a single vice chancellor in the CSUC system. By contrast, several legislators and several staffers praised a shift in strategy which put State University Dean Anthony Moye in the forefront of the CSUC's budget testimony and in regular contact with staff agencies. Although Moye was sometimes criticized for being stiff-necked, he was universally praised because he was knowledgeable and straightforward.

It may well be that the most important political resource now available to higher education is its top leadership. Universities may no longer be able to select chief officers primarily for academic qualifications, acceptability to the faculty or alumni, or skill in ceremonial functions. All of these factors remain important. Certainly fund-raising skills will continue to be a millstone around presidential necks. But in weighing the factors that bear on presidential selection in public higher education, regents and trustees may now be compelled to give far greater emphasis than formerly to skill in dealing with state government or at least to an appreciation for the process of policymaking which prompts the appointment of skillful subordinates for that purpose.

Moreover, the necessary skills for the state government arena are probably changing. Socializing and lobbying mean much less than formerly. Knowledge of the actual programs of the university together with attention to detail are increasingly significant. Absolute candor with legislators and before legislative committees has become essential, even if it means displaying weaknesses in the present operation of higher education and confessing that such weaknesses cannot be readily corrected.

Effectiveness in the state government arena also requires a willingness to face down internal constituencies of higher education when their demands or expectations are in conflict with state government objectives. Surrender to every legislative or executive initiative is not necessary. But some responsiveness to those state government concerns which are widely felt among the public and which have educational merit is essential. This will often require steps which unsettle long-established prerogatives within higher education. But the choice for leadership seems either to respond to sound initiatives from state government, sometimes at the expense of internal dislocations, or to accept an inexorable extension of state regulations intended to achieve those goals.

If political skill is important in retarding the spread of regulation, so is political will. The philosophy, recruitment, and socialization of higher education officials is crucial. Those who understand academic life and whose commitment to it is constantly renewed by their environment are likely to be strong, confident, and effective spokesmen in explaining university programs and internal governance structures. If leadership is far removed from campus life, if it becomes the mirror image of state control agencies, and if it finds its reference groups in state officials and staffs, it is likely to lack the will and determination to use its skills effectively to oppose state regulation of higher education. As I previously pointed out, the recruitment and on-going socialization of the system leadership in the University of California and The California State University and Colleges appear to reflect these two different possibilities. Apart from its other political and constitutional weaknesses, the CSUC suffers also from its leadership's lack of political will.

If these preliminary thoughts on the quality of leadership point in a plausible direction, there is an urgent need for new thinking by commentators on higher education and by governing boards about the essential characteristics needed in chief officers of systems and institutions in order to respond to changing attitudes in state government about the support and regulation of universities. Traditional criteria for selection of chief officers may be outmoded, and more emphasis should probably be given to the political skill and political will to operate in a very different governmental environment than has previously existed for higher education.

The Impetus To Regulate

It is difficult accurately to identify the reasons why higher education, traditionally independent of state regulation, has recently been the central target for state controls. Many of the reasons given during interviews are commonplace; yet for those most involved in the political process, these commonplaces are reality. Other reasons are more speculative. Some are pertinent primarily to California, but many appear national in scope. Perhaps the central point is that the impetus for regulation arises from so many sources that there is no higher education strategy that can effectively reach the causes. Universities are likely to be under pressure for an extended period and for many reasons; they will not go back to the former and better of days in which their independence was assumed. Their posture will therefore be defensive, and their strategy will be political.

In this new condition, a readjustment of expectations in universities is needed. Faculty have had a difficult time adjusting to the new assumption that they ought to be scrutinized and regulated, that they ought to be treated in a style to which other state agencies long ago became accustomed. Since the missions of universities lend themselves very poorly to quantitative measurement, it is difficult to assess the effect of this changed environment on faculty morale and on the quality of their teaching, scholarship, and service. A seige mentality is not condusive to the work of universities.

Can state officials and university leaders find a tone and rhetoric which explains changed circumstances to faculty, which alters expectations, and which shows that a different environment was probably inevitable, without at the same time demoralizing faculty and crippling their effectiveness?

Increased regulation may, at the outset, be the condition of every fallen angel. In the post-war years, and particularly the early and mid-1960's, universities rode the crest. Enrollments rose; federal, state, and private money flowed; new buildings and programs were created at a dazzling rate. Moreover, higher education was identified with society's most important symbols: upward economic mobility, the "good times" of youth, public service to society in addressing social ills. It is not surprising that such institutions had few outspoken foes. A journalist described the special status of the University of California.

> Austerity might not be so galling for the university administrators and faculty had UC been historically less pampered. The public coddled it, stroked it with endearing pride. The regents, many of the most influential and respected people in the state, protected it from the ravages of a harsh and cruel world. The legislators seldom denied its most picayune pleadings. So devoted were the people to the university, that even during

the great depression, teachers' salaries were not cut and none lost their jobs. With such pampering, there is little doubt at the university's preeminence.[47]

In the late 1960's and 1970's the conditions which supported the prosperity of universities all seemed to change simultaneously. The economic value of university degrees declined. Campus violence enraged citizens. The "radical" posture of the university on American involvement in Southeast Asia, which was later vindicated by public opinion, came too far ahead of public sentiment to be acceptable. The egalitarian thrust on campuses, especially in the recruitment of and special programs for blacks, stirred hostility in some quarters.

In addition, practices in universities became sloppy and faculties became arrogant. Pride may indeed have gone before a fall. The impression left with at least one generation of undergraduates and several generations of citizens was that research was pursued at the expense of teaching, that faculty pursued outside income to the neglect of their university duties, that teaching loads dropped to unacceptable levels, and that faculties had become self-indulgent. The public's affection, in short, had been betrayed. A strong case can be made that these stereotypes are wrong, that they did not apply to most faculty.

The problem is that they did apply to some highly visible faculty and that the mood in universities did impede either administrators or faculty governing bodies from addressing these abuses. It is not surprising, therefore, that Governor Reagan won public support with speeches about low faculty teaching loads. His Commonwealth Club speech in 1971, in which he analyzed the University's budget, was a masterpiece.

> Historically, teaching has been afforded equal status with research and other functions in our institutions of higher learning . . . . nine or 10 hours in the classroom per week--or about three lecture courses--is traditionally regarded as an appropriate teaching workload. By adding the time spent developing courses, interviewing students, and for such activities as individual study, this usually brings the time devoted to teaching to about 50 percent for an average faculty member, with the other time available for research. Unfortunately, teaching has been neglected or downgraded (figures for 36 randomly selected UC departments was 4.3 classroom hours a week per faculty member; the university's published average for 1969-70 was 6.7 hours, and the estimate for the current year 7.2 hours). University spokesmen protest that the faculty works "60 hours a week." Perhaps they do. But it is the lack of balance of their work that is our concern. If

> they worked 80 hours a week, it would not be enough if teaching in those 80 hours was being neglected. The public expects, the students need, and our financial conditions require that teaching be restored to equal status with research.[48]

Reagan's analysis and his vision of an appropriate faculty workload may or may not be applicable to various kinds of institutions, departments, and so forth. But the argument for balance and the reliance on traditional practices have great appeal to the public. I can find no rejoinder from any higher education spokesman that might persuade the public that Reagan's position was wrong. One consequence of the Reagan stance was the elimination of faculty positions in the University of California, with the intention of requiring the remaining faculty to increase their teaching loads. It is doubtful that this strategy worked as expected; apparently faculty retained the former number of classroom contact hours but classes were enlarged.

In the CSUC system, which is not constitutionally protected from regulation, a twelve unit load was prescribed, the three unit reduction for teaching graduate courses was eliminated, and the audit of workloads was conducted on a professor-by-professor basis rather than on the more traditional averaging of workloads over the entire faculty. Such rigid restrictions persist to the present day.

A considerably broader perspective on state regulation of higher education was advanced by one university official, who nonetheless bemoaned the growth of state controls. Since the advent of the New Deal, he argued, society has tried to solve one problem after another by prescribing new regulations. If this occurred first in the private sector, that was only because private sector institutions were powerful and visible. As the social services thrust of the New Deal philosophy made public institutions powerful and visible it was inevitable that the regulatory face of the Rooseveltian revolution would be turned to them. The response to problems in public sector institutions became the same as the response formerly addressed to private institutions: regulation. Higher education did not grow dramatically until the 1960's and it was not perceived as a "problem" by the public until the late 1960's and early 1970's; the present regulatory thrust is the inevitable New Deal response to that perception.

Neil Smelser has suggested that competing values and master planning have themselves given rise to new demands for state intervention. "Two sets of values have worked to legitimize the institutions of higher education in California: competitive excellence and populist egalitarianism."[49] The University of California has always aspired to compare itself to the nationally eminent private institutions of the East; and in modern times it has itself achieved such stature that it has become a standard of comparison for elite institutions nationally. On the other hand, the community colleges stand as a monument to the egalitarian streak that has run through California's history: these institutions are open to every student and they provide every kind of education--liberal arts, vocational, and adult, and general.

Competitive excellence and populist egalitarianism are plainly in conflict. The Master Plan of 1960 was intended to resolve the conflict by assigning different values primarily to different segments. But in creating the intermediate segment, the state universities, the Master Plan sowed the seeds of conflict. These institutions had restricted admissions, but not as restricted as the University of California. They had liberal arts and graduate programs, but not the prestige professional degrees or the Ph.D. Their faculty was recruited from prestige institutions and mainly possessed terminal degrees (usually the Ph.D.), but they were paid less than the UC faculty. The state university faculties possessed research degrees, but their institutions had very limited research missions and almost no resources to support research. In this intermediate system were found both competitive excellence and populist egalitarianism; the creation of such a system with numerous campuses and an aggressive, aspiring faculty assured conflict as the CSUC sought to expand in both directions.

A series of intersegmental battles over institutional names (colleges or universities?), over the definition of the CSUC research mission, over faculty salaries and workloads, over admissions standards, and so forth invited and required repeated legislative intervention. The practice of intervention became fixed, and the transition from adjudicating boundary disputes to imposing limitations was a short one. Moreover, the statutory authorization of the CSUC made it an easy target for regulations which were prompted by legislative pique with the University of California. In certain ways the CSUC has been used by the Legislature as an object lesson to warn the University that grave departures from the legislative will might very well provoke a constitutional conflict in which the Legislature, if successful, would subject the University to draconian regulations, to which the CSUC bears witness.

In addition to intersystem conflict, there has been sharp conflict within the University of California itself. The initial rhetoric of the UC administration and the University's special mission implied that every campus would be awarded the resources of the great flagship institutions at Berkeley and UCLA. Each aspired to a full array of doctorates, to a medical school and law school, to the rich facilities and funding necessary to become a major research institution, and so forth. As resources became constrained, the UC central administration made implicit decisions to husband resources for the flagship campuses and to deny full status to the others.

Ronald Reagan's governorship, declining enrollments, and public disenchantment with the University made Clark Kerr's vision of a "dozen or so campuses of equal size, academic breadth and, perhaps prestige"[50] infeasible. In 1973, UC President Charles Hitch responded to these pressures by devising "a long-range development plan that would prevent UC campuses in Davis, Irvine, Riverside, San Diego, Santa Barbara and Santa Cruz from reaching existing goals [of equaling Berkeley and UCLA in size and programs] set for them by the University administration and, especially, by the chancellors and faculty members of the six institutions."[51] The UC Academic Senate and chancellors of several of the affected campuses immediately opposed the long-range development plan, and legislative intervention was invited. The constitutional autonomy of the Regents effectively blunted such appeals, but the incident demonstrates how the internal dynamic of multi-campus systems may spur state government intervention in higher education.

Conflict between systems and among institutions within systems is matched by the political strivings of the horizontal constituencies that cut across institutional and sometimes system lines. An assistant executive vice chancellor of the CSUC sketched the relationship between constituency activism and state government regulations.

The basic constituencies of a campus--faculty, students, and staff--are all well organized and represent important statewide, and frequently competitive, political forces seeking increased membership and power. They are not to be ignored by a sensitive legislator. In this, they are no different than other well-organized articulate groups within the political process. They have lobbyists, make political donations, give or withhold votes, and influence other publics. But they are different from most other pressure groups in that the first locale of power they must contend with is the governing board. Appointed for long terms, usually not subject to voter pressure, forbidden to accept donations, the boards tend to be independent and less subject to direct political pressure--and therefore some would call them inflexible or unresponsive! Just recently in the CSUC, the students unhappy with the Trustees' budget issued a press release which stated, "Actions like these force the students to take their case to the governor and the California State Legislature . . ." This relationship can best be conceptualized by thinking of the Legislature as an appellate body over the governing boards. Faculty, staff, and student organizations unable to obtain satisfaction of real or imagined administrative grievances from the Board appeal collectively and individually directly to the Legislature--the same Legislature to which the Board looks to satisfy its budgetary and other needs. The stage is set for political intrusion![52]

Perhaps the key to the new activism of internal university constituencies is the limit on resources. When resources were expanding at a dramatic rate, higher education administrators found ways to meet some of the high priority needs of each constituency. If this did not bring all groups into a well-ordered coalition to support institutions and systems, it at least tended to retard the tendency for each constituency to appeal separately to the Legislature and Governor.

Some cooperation among various constituencies still exists. The University of California administration creates a special budget task force of as many as twenty-five people; its members include campus administrators and representatives of the faculty. This task force advises the administration on the substance and politics of the budget process, and it uses its contacts with internal constitutencies to drum up support for a "common front" position. Students have been reluctant to be bound by decisions of the budget task force, so they are briefed by the administration but they do not participate directly. The CSUC has not achieved such unity. Its Council of Presidents and Academic Senate review the budget and comment on it before it goes to the Trustees. But there has been sufficient disagreement and distrust within the system to prevent a genuinely coordinated legislative effort.

Student representatives have recently emerged as major forces in higher education policymaking. Observers in Sacramento do not attribute this primarily to student voting power, although this factor can be important in some districts. Rather, they suggest that the student lobbies have recruited excellent staff people, have done their homework on the substantive issues, have mastered the complexities of the budget and legislative processes, and have presently timely objections, alternatives, and proposals forcefully and effectively. Their new-found political skills are matched by a recently developed legitimacy. The relatively liberal and youthful members of the California Assembly simply have a high regard for student opinion and a respect for students as a constitutency deeply affected by higher education decisions.

The fragmentation of higher education constituencies may be a function of broader developments in American politics. Analysts have recently observed that coalitional organizations have declined in influence while single-issue groups have become stronger. A former tendency to compromise has apparently been replaced by an insistence on complete victory. Political parties have been enfeebled; interest groups have become powerful. It may be that internal university constituencies, which once compromised their differences and presented a more or less united front to state government, are affected by these trends. Each group demands more than it can accomplish in a larger coalition. And each calçulates that state officials are more vulnerable than formerly to the appeals of groups which can reasonably assert that their members will make voting decisions on the narrow range of issues which they are advancing. In this respect, the fragmentation of higher education constituencies, which virtually assures greater state regulation of institutions and systems, is similar to the fragmentation of American politics generally.

Overlaid on the regulatory impulse inherited from the New Deal is the growing public opposition to taxes. The succession of gubernatorial elections from 1966, when Ronald Reagan was elected, to 1978, when Jerry Brown won a second term, were fought primarily on the issue of taxes and expenditures. In each election the candidate who seemed most likely to curb taxes and spending was elected. The hostility toward government spending has deepened during the past decade. Ronald Reagan failed narrowly to win public acceptance for a constitutional initiative limiting state government spending; but in 1978 Proposition 13 passed overwhelming and has gained even greater public support since its enactment. Higher education is the largest expenditure category in the state agency portion of the California budget. It is a natural target for cuts and, moreover, for regulations intended to curb the cost of that part of the educational program in which the public is unprepared to endure cuts.

The contemporary rhetoric demanding "accountability" in government services may well represent a convergence of several ideas. It stems from the New Deal insistence that powerful private sector institutions be checked by and held ultimately responsible to the public through administrative and elective bodies. It also represents a response to the size and arrogance of government bureaucracies, which the public has come to perceive as beyond their control. And in a fiscal sense it is part of the deepening public hostility to government expenditures, especially those which appear to go beyond the barest minimum necessary to administer and deliver public services. Whatever its many facets, the idea of accountability bears heavily on higher education. The posture of universities has always been that their mission cannot be carried out in a bureaucratized way because the teaching/learning process is highly personal and individualistic and the research function relies heavily on creativity. Appropriations should be made and responsibility delegated, according to this theory; and the measure of higher education performance is in the ultimate "product." This method of operating is contrary to the contemporary definition of accountability, in which each expenditure and each employee's specific work routine are subject to measurement and evaluation by external agencies.

The application of this theory of accountability can best be seen in the workload formulas devised for The California State University and Colleges. Each faculty person is expected to work a minimum 45 hour work week, each component of which is prescribed. Twelve hours of classroom contact are required; scheduled office hours are included; two hours preparation for each classroom contact hour are allowed; and approximately four hours are committed for university or public service and/or instructionally related research. Moreover, the concept of classroom contact hours has been converted to a formula of "weighted teaching units." In lecture courses, one classroom contact hour is the equivalent of one weighted teaching unit. For laboratory or studio activities, however, three hours in the classroom is counted as one weighted teaching unit on the improbable theory that the supervision of laboratories does not require the two hours ordinarily allotted for preparation.

No serious argument is advanced that this prescribed workload represents the real performance of faculty duties, and those in the state agencies and CSUC system office who promulgated this formula finally fall back on describing it as a "typical" or "average" or "illustrative" statement. Yet the classroom contact hours and weighted teaching units of each faculty member are audited by filed workload reports that are checked by computer. In more than one instance auditors have appeared on campuses to follow faculty members' work routines to be assured that three hour laboratories are indeed three hours and that office hours are indeed met. The idea of accountability is thus transformed into closely calibrated quantitative measures, because they are easy to monitor and because they are readily explainable to the public and to elected officials who demand "accountability."

The growth in legislative and executive staffs undoubtedly contributes to the regulation of higher education. The modern tendency to increase the staff support available to the Governor and the Legislature is only partly attributable to officials' desires to increase their prerequisites or to develop incumbency political advantage. Following the remarkable growth of administrative agencies, the executive and legislative branches began to feel they had lost control of the bureaucracy which they headed. To understand that bureaucracy and make it accountable to the people's elected representatives, staff support was expanded in the executive and legislative branches. The same concerns have prompted many legislatures in many states, including California, to move toward full-time service and full-time compensation. In California the trend has gone an additional step: not only do legislative agencies, such as the Legislative Counsel or Legislative Anlayst, have staffs, but individual members also have personal staffs and in the lower house committees are well supported.

Legislative staffs generate questions and concerns to which agencies must reply. As anyone knows who has been part of an interrogatory process, the resources required to answer questions and perform studies are far greater than the resources needed to request information. One of the most impressive techniques of regulation in California is the demand for information. Literally dozens of reports and studies are required in the budget or in the supplementary language. Additional information is sought in committee hearings of both budget and subject matter committees. And an array of inquiries are directed to higher education officials informally at the staff level. Each round of inquiries prompts additional questions and suggests additional areas for regulation. The high cost in time, energy, and money to respond to legislative and executive staff inquiries was mentioned by all higher education personnel interviewed.

Several pointed out, moreover, that the steady drumbeat of inquiries also has an adverse affect on morale because each targeted area, often picked for questioning virtually at random, feels that it will be dragged into a hostile forum where it is little understood and will have little opportunity rationally to explain itself. The highly emotional or accusatory style of some state agency staffs and legislators makes it appear inevitable that each area selected for study will be put through a public humilitation and will be subjected to regulation. This perception, which is based on at least some state government conduct, has itself become a vehicle for regulation. The tendency of higher education leaders and program managers is to be timid, to avoid bold initiatives that might draw attention and thus inquiries, and to too readily take "suggestions" from state regulators in order to avoid the more painful process of reporting and explaining.

A number of higher education officials complained that the kinds of staff people recruited tended to create unnecessary conflict and regulation. The legislative staff especially tends to be ideological. Moreover both executive and legislative staff apparently believe they "make points" by turning up "issues" that can be portrayed as misconduct, inefficiency, waste, and so forth. Since it is often a highly subjective judgment whether any given expenditure or action substantially contributes to an educational program, the opportunity for criticism is great. There is strong sentiment in the higher education systems that staff members quite often convert marginal conduct into misconduct in reporting to their principals. All large bureaucracies produce some instances of misconduct. In the adversarial environment that surrounds state government/university relations in California, occasional instances of marginal judgments or misconduct are used as "horror stories" to fuel demands to "do sometime"--usually to impose sweeping new regulations.

It is difficult to quarrel with the principle that the executive and legislative branches should be generously staffed to make policy and engage in oversight. The problems that emerge from such generous staffing seem primarily to be that neither state government staffs nor higher education officials have developed clear and mutually acceptable means by which universities might be held accountable, that virtually no margin of error is permitted in the management of enormous institutions, that incentives run toward finding mistakes or creating issues rather than acknowledging accomplishments, and that ideas about accountability encourage staff to recommend executive and legislative intervention instead of institutional self-correction as a response to whatever may be viewed as a variance from prescribed policy or good practice. The problem then is not necessarily in the growth of legislative and executive agency staffs, as is often claimed by higher education officials, but rather in the types of staff and styles of operation. Higher education may well contribute to the perceived tyranny of state government staffs by not providing appropriate means for review of their own programs. This is an issue on which there is a need to focus more fully later.

The personal political philosophies of central figures in state government and higher education are important factors in the relationships between the two institutions. Clark Kerr's personal vision that public education was the premier public service and that public universities should attain the same quality in teaching, scholarship, and service that was found among the finest private institutions made an enormous difference in the relationship between the University and state government.

William Matson Roth, a liberal businessman and philanthropist appointed to the Regents by Governor Pat Brown, said "Kerr represented the great pride of the university--its past glories and its present role for a better society . . . . Clark was always talking about UC in comparison with Harvard and Yale. He epitomized the idea of its unimpeachable quality and its orderly growth . . . ."[53]

There is no doubt that Kerr's vision of the role of the university in society was a prime cause of the University of California's emergence as one of the world's leading universities and as a model for multi-campus systems elsewhere in the United States. But Kerr's vision may also have been an invitation for sweeping state government intervention. The concept of a nine-campus system, with each campus nationally or internationally eminent, may have been more than state officials or the public was willing to support. Certainly an institution of such prominence and scope becomes a more visible concern of state government.

Ironically, Kerr's approach to campus disruptions probably did a great deal to undermine his expansionist approach to the University. Describing his response to the early disorders at Berkley, Kerr said:

> I favored compassion and reason as a better reaction. But that takes time; it's not as quick as CS gas. Yet I also don't think it leaves the scars on society and on people that CS gas does.[54]

Kerr believed that such a policy toward internal disruption would protect the university from permanent damage.

> There was this effort by the extreme left to politicize the university, but they hadn't by any means conquered the university. The university rules had to be somewhat modified to deal with them, but these rules pretty well withstood the internal pressures. The university is in a much better position to withstand the radical student on the inside than it is the governor on the outside, who controls the budget.[55]

It is not clear whether Kerr could have protected the University's expansion plans if he had taken a substantially different view toward internal disruptions, but it is certainly plain that the public and state government responded much more favorably to S. I. Hayakawa's approach at San Francisco State University than to Kerr's.[56] It is not unfair to say, then, that Kerr's personal philosophy about the role of higher education in society was not only a primary force in the development of the University of California, but also that in another realm, namely how to respond to disorder within a university setting, it also contributed to the slowing of the University's momentum toward his goals.

Ronald Reagan's generally conservative approach to higher politics also influenced the relationship between state government and higher education. It is probably a mistake to attribute Reagan's higher education policies primarily to political expendiency. Conservatives generally favor greater self-reliance by individuals, greater emphais on services provided by the private sector, and suspicion of public expenditures. The Reagan policies toward higher education were certainly consistent with such beliefs. He cut the University's operating budget requests to a far greater extent than previous governors; and he denied funds for compensation of faculty and other public employees. Reagan insisted that the University of California abandon its historic "no tuition" policy, and he was successful in forcing the Regents finally to adopt an "education fee" which now amounts to several hundred dollars per academic year (three academic quarters) on UC campuses. Reagan's justification for tuition was a typically conservative statement:

> [Tuition] amounts to less than ten percent of what is the actual cost of educating a student at the university. It seems to me that it is sensible taxing policy to ask those who benefit most by a service to pay at least a portion of that service. It is true that society also benefits; therefore, society and the student should share.[57]

Clark Kerr's description of the Reagan policy was unwittingly a statement of conflicting political philosophies rather than a description of a vengeful or punitive Governor whose motives were primarily political.

> He [Reagan] feels . . . public higher education ought to fulfill residual responsibility. The private institution ought to take care of the high quality students and have the high quality faculty. Public higher education is something like welfare, taking care of the less able student and having a less able faculty.

> . . . I don't agree . If the Reagan policy were followed through, it would destroy one of the great universities in the world. I don't see that much difference between public and private universities these days anyway. Cal Tech's operating budget, for instances, may be as much as 90 percent from public funds. I just don't see an ideological conflict between the two. He does.[58]

It is more difficult to describe the political philosophy of Governor Jerry Brown. He has emphasized lowered expectations for individuals and for public institutions; he is skeptical about the capacity of government to solve many societal problems. The appropriateness of higher education for most high school graduates has at least been questioned by his administration. At the same time, Brown has been concerned about access to higher education for traditionally disadvantaged groups, and he has shown support for life-long educational opportunities and returning education for nontraditional groups, such as women. Greater involvement with public problems by university students, both as a public service and as a form of education, has been stressed. Finally, Brown has been suspicious about faculty workloads, about the quality of education, and about faculty prerogatives. His hostility to higher education administrators as well as to high ranking officers in most other state agencies is legend.

Brown's view seems to emphasize more self-reliance and fewer services by government. In many respects Brown's views parallel Reagan's; the substantial differences seem to be his opposition to tuition and his emphasis on affirmative action, both traceable to his belief that minority persons and women must be given access to means for improving their place and their power in society.

There is a tendency to count Brown a shrewd politician and to attribute his decisions to his political instincts. That view is certainly sharpened by Brown's embrace of Proposition 13, which he had opposed. Yet the perception that Brown steers by the political winds seems wrong. A better assessment is that he is one of a breed of "limited government liberals" whose suspicion of government extends from its interference in the political, social, and private lives of its citizens to its social services programs which sap individuals of the will and ability to resolve their own problems. Whatever is the degree of self-reliance actually possible for individuals in a complex and interdependent modern economic and social system, Brown's belief in its possibility is crucial.

Virtually all of his higher education decisions are consistent with such a view. He has held down higher education budget increases below the level of inflation and he has dramatically reduced the real income of faculty and administrators. His few budget initiatives have been to support such programs as student affirmative action and periodic competency testing in English language skills. Brown's rhetoric has not been so hostile nor so visible as Reagan's, but his dislike--perhaps contempt--for California's system of higher education is clearly perceived by those who observe him closely.

To underscore the reoccurring theme of this paper that much of the regulatory surge in California arises from the personalities of particular political figures, it is useful to consider the political philosophy of Assemblyman John Vasconcellos. No person in California politics has taken such an extensive and extended interest in higher education policy. Although Governors Reagan and Brown have had an enormous impact, it has primarily been through the application of blunt instruments, especially budget cuts. But Vasconcellos' influence has been felt in numerous ways: The Joint Committee to Study on the Master Plan for Higher Education, constitutional amendments, the shortening of Regents' terms, the creation of the Postsecondary Education Commission, budget hearings, new regulatory statutes, and an insistent summons for higher education dramatically to change what it is and how it operates.

Although Vasconcellos had developed an important following among critics of higher education, among some disaffected faculty, and among students, he is driven by his personal philosophy rather than political considerations. This was grudgingly, if bitterly, acknowledged by an assistant executive vice chancellor of the CSUC system in a scarcely veiled attack on Vasconcellos in a paper delivered at a higher education conference.

> Far more dangerous to education are those legislators (there must be at least one in each state) who are determined to substitute their value judgments for that of the [governing] boards'--for they know they are right! . . . .
>
> A legislator's personal commitment to a set of values; lack of faith in the governing board's judgment; unwillingness to wait while boards slowly change, if indeed change is a good idea in every case; and a powerful role in the Legislature all combine to create a situation where legislative intrusion into Trustee authority appears both necessary and proper, when in fact it is neither. Avoidance of such legislative intrusion is nearly impossible, for the legislator involved has a personal commitment which he or she must fulfill . . .[59]

A higher education official said scornfully in the course of an interview that Vasconcellos is "a left-over San Francisco flower child."

The characterization, defanged, is not a bad place to start in understanding Vasconcellos; he is plainly a person whose perceptions of life, society, and higher education have roots in the cultural change that has occurred in Northern California and increasingly elsewhere since the late 1960's. It is useful to quote his own views at some length, for they are revelatory beyond the pen of any commentator.

> We find our society existing at this point in history between conflicting cultures . . . The old culture emphasizes work, intellectuality, accumulation, elitism, and conformity. . . But the new culture rejects the work ethic, rejects conformity, is more sensuous in its orientation, more democratic, and more trusting of diversity, feelings, and the human body . . . . The implicit bias underlying the traditional culture and its institutions is that man is evil, depraved, sinful, or--at best--neutral, and that he must look to institutions, authority, religion, education, and the like to save him. The new culture assumes man's fundamental and spontaneous responsibility and trustworthiness and sees the old culture's institutions, with their negative assumptions, as the greatest threat to personal wholeness and integrity.[60]

How do these views bear on the University?[61] Vasconcellos repeatedly argues that both excellence and equality as given voice in higher education are based on competition: "excellence has meant competitive excellence, equality has meant equality in competition [i.e., the opportunity to compete an equal basis]." This emphasis on competition is unacceptable to Vasconcellos because "competition . . . tends to imply a single standard of excellence and a single standard of equality." With the breaking down of consensus in society, "it might be hoped that the university could be the place where both models--of culture and of man--could be tested, and where a valuable dialogue between new and old would occur."

But this has not happened because the "university is the servant of the traditional culture" and "for the most part, resists the notion that there might be another legitimate model." In learning, the university emphasizes "intellectuality, abstraction and theory" and it has "little regard for experiential learning, little respect for the affective domain of human life." The specialized disciplines that have grown up in universities fragment knowledge, and the university fragments man. "The effective and cognitive are split, and as a result, it is forgotten that the whole man may be greater than the sum of his separated parts." In teaching, "the university assumes that most persons learn at the same rate in the same sequence . . . This is basically an industrial assembly line model of learning, which relies on an external uniform standard rather than on the needs and wants of the individual person."

Vasconcellos also insists that "the university is elitist." It has "perpetuated the socioeconomic dominance of the haves while doing little for the have-nots." The segmental admissions requirements in the Master Plan are a case in point; higher education "persists in using culturally, economicially, and socially biased admissions criteria that exclude most lower- and lower-middle-class persons from our 'better' institutions." In research the "universities and their faculties have served the powerful (agribusiness, the Department of Defense) and, in so doing, have helped perpetuate a socioeconomic order stacked heavily in favor of those with wealth and power."

These explicit statements of philosophy provide a full explanation for Vasconcellos' program. His proposal for a "fourth segment," his proposals for control language limiting nuclear research for defense purposes, his hearings on the impact of the University's agricultural research program on farmworkers, his suggestion that between eight percent and 12.5 percent of admissions must be outside established Master Plan criteria, his support for student and faculty affirmative action appropriations, and his attempt to require that those filling newly budgeted faculty positions be evaluated for promotion and tenure solely on the basis of teaching are all rooted in Vasconcellos' forthright statements of personal philosophy.

An outsider's view would certainly credit vast changes in higher education to Vasconcellos' vision--more affirmative action, more experiential learning, more authority for student governments and the seating of students on the Regents and Trustees, more money for counseling and personal services, more official control over universities through shorter terms for governing board members, and so forth. But Vasconcellos himself has become frustrated and sometimes bitter; despite the demonstrable institutional changes, the universities have not become the kinds of two-culture communities that he envisions. "The inflexibility and rigidity of intellectuals is a curious phenomenon . . . . I guess I was really raised to believe in and to place high faith in education and educators and somehow even in my disillusionment about them I haven't let go of that."[62] His evaluation of university people is sometimes harsh.

> . . .there's a new revolution going on in society. I don't think most academics are willing to take part in it except at a distance critiquing other people. I think the most really amazing thing about academics is that they're so radical about everybody else's business and so reactionary about their own.

> They so much resent even being questioned about whether they're doing anything valuable . . . . I guess what I'd like to see is somehow much more self-examining; much more visibility to the public; much more asking what [the public and students] want and need; not arrogating to themselves all those decisions all the time.[63]

Vasconcellos has a clear view about the supremacy of elected officials in the conduct of public business. And he does not hesitate, therefore, to persuade, prod, and compel universities toward his vision of a changing society. In his long years in the Legislature, he has acquired seniority, respect, key subcommittee chairmanships, and a mastery of the techniques of regulation and control. Much of the thrust toward state regulation of higher education has emanated from Vasconcellos' political skill and policy objectives; it would be a mistake to understand this heightened regulatory activity as arising from any cause other than the deeply-felt personal philosophy of a major figure in California politics.

State Government and Higher Education In California: Summary and Perspective

Looking Backward. There seems little doubt that state regulation of higher education in California has increased dramatically in two decades. To date, public higher education has been the target of most state regulation, except in the areas of affirmative action and student financial aids. The prospects seem high, however, that state government will extend its regulatory net over private education as well. The Private Postsecondary Education Act of 1977, which authorizes the Superintendent of Public Institution to certify the appropriate status of private degree-granting institutions, is unlikely to be the final step in the process of state approval of private higher education programs.

Bills bringing accreditation agencies within the purview of state regulations or influence have steadily gained strength in the Legislature, and it seems only a short step to state involvement in the accreditation process. The dissolving line between private and public institutions is easily illustrated by the recent controversy at the University of Southern California, where it was alleged that corporations doing business with Arab governments gave money for the creation of a Middle East center only upon the condition that representatives of Saudi Arabia would be consulted in the selection of the center's director and about the center's program. State Assemblyman Mel Levine of Los Angeles has gained wide support for a bill that would require California universities to disclose funds in excess of $250,000 received either directly or indirectly from foreign governments. Whether or not such legislation passes, the ease with which it has gained serious consideration is a measure of the dimming legislative perception of the line between the regulation of public and private institutions.

An examination of the regulation of public higher education suggests that most state activity has been directed to segmental differentiation and fiscal control. If one defines academic freedom in its traditionally narrow sense--as the guarantee that in teaching and research there shall be no restriction of the ideas studied or advanced--it can safety be said that intensified state regulation in California has not invaded academic freedom. But it can also be said that state regulation has substantially intruded into areas such as curriculum, degree requirements, and personnel decisions that had formerly been left primarily to governing boards, academic administrators, and faculty because of their presumed academic expertise. Recent legislative mandates that degree credit be awarded for remedial English writing, that the layoff of faculty occur on the basis of reverse seniority rather than program need or faculty qualifications, and that referees' evaluations of faculty be shared with promotion or tenure applicants are examples.

The techniques of regulation have proliferated. The budget and audit processes, letters of intention and committee instructions, informal advice and agreed formulas have become major devices for regulating higher education. There is less reticence in using more traditional techniques, such as influencing the appointment of governing board members and academic administrators. Higher education has not been singled out for expanded regulations, however; they have become more common in all state agencies as the Governor, Legislature, and their control agencies have become heavily involved in the management and administration of public services.

At the same time that techniques of regulation have become more numerous and sophisticated, higher education has become more vulnerable to state government control. Public regard for universities has waned as the economic worth of higher education has declined, as campuses became politicized and turbulent in the 1960's and 1970's, as lifestyles in university communities diverged sharply from those in the general society, as enrollments have fallen off, and as the perception has become widespread that professors have diverted their energies from teaching to professionally advantageous research and financially lucrative consulting. The fragmentation of university constituencies--administrators, faculty, students, and alumni--has sapped the political strength of higher education. Finally, the inadequacy of many academic administrators to represent universities in public forums and to promote changes within higher education that will address at least the valid external criticism weakens higher education's ability to respond effectively to pressures for greater state government regulation.

The vulnerability of higher education has occurred in concert with a heightened impetus for regulation. The New Deal thrust to regulate large and powerful institutions has spread from the private to the public sector; and higher education is the largest, most visible, and most influential of the state agencies. Taxpayer resistence to government expenditures and the demand of both the public and officials for accountability by public buraucracies converge on higher education. The aggressiveness of public officials and the greater staff resources of the Executive and Legislature mix with sharper ideological commitments to stimulate state government attempts to influence the conduct of higher education.

The Legitimacy of Regulation. It is difficult to devise a sound theoretical basis for denying the authority of the Govenor and Legislature to use a full panoply of regulatory methods to impose policy and fiscal restraints on public higher education. And to the extent that private institutions accept public funds, they too invite regulation. Elected officials are, in the final analysis, required to authorize public services, establish the levels of fiscal support, define the missions, and impose the program and fiscal controls necessary to assure that those services are delivered in ways consistent with public policy.

In rare cases, such as the University of California, higher education or some other state agency may be given special status which limits the authority of elected officials. Even in those cases, of course, the level of budgetary support lies with the Executive and Legislature. But most higher education in America does not have constitutional protection. It resembles, instead, the relationship of The California State University and Colleges to state government. Public higher education is responsible to the public, and in a representative democracy the public speaks through elected officials. The authority of the Executive and Legislature and their delegates to regulate public higher education is difficult to challenge within the framework of representative government.

The controversy about regulation should, therefore, be set at a lower level of abstraction. The issue is typically not whether the authority of elected officials is legitimate. Rather, it is, first, whether higher education services will be more efficiently delivered to the public if substantial delegations of operating authority are made to universities. Second, can public officials and the public be persuaded that the quality and scope of higher education services will be enhanced by relatively broad delegations to universities? And, third, can means be found for holding public universities and colleges ultimately accountable to the Executive and Legislature if the regulations which are applied to other state agencies are foresworn in the instance of higher education?

I conclude that a strong case can be made for all three of these propositions, but the latter two will require substantial changes in the way that higher education presently conducts its affairs. Before turning to those issues, however, it is useful to recite briefly the strongest arguments for the proposition that wide delegations are a concomitant to the most effective delivery of higher education services. First, the traditional argument that academic freedom is essential to the development of new knowledge, to the testing of that knowledge, and to the instruction of students has enormous force. It has become widely accepted in our society; and it should be noted that in California's highly polarized politics there have been virtually no serious government threats to academic freedom in recent decades. Neither ideological governors like Reagan and Brown nor ideological legislators like Vasconcellos have seriously proposed restrictions on the freedom of faculty to think, study, write, and teach.

The serious claims for restricting speech and thought have largely been advanced from within universities, by "radical" students and their faculty allies and in some cases by academic administrators who were ideologically conservative or cowardly in facing public criticism of student and faculty protests. Those in state government who have recently cried most loudly for additional regulation of higher education are largely from the liberal end of the political spectrum and mainly from the Democratic party. These same people are most likely, however, to insist on freedom in matters of expression and belief.

Second, fiscal regulations in California have now become so draconian that it is possible to show that procedures intended to save taxpayer dollars actually raise higher education costs. Examples will suffice. The state printer's monopoly on bookbinding and printing costs the state's universities more than would similar services provided by private local vendors. The purchase of automobiles through the General Services Administration is more expensive than the lease or purchase of cars from private concerns. The mandatory "copier plan" imposed by the Office of Product Services has actually increased the dollar outlays for the duplication of instructional materials. Changes in state regulations have required universities to abandon serviceable equipment because it does not meet new "standards."

The review of purchases and service contracts at three or four different levels of the university and state government hierarchies not only is costly in staff time, but it often results in delays which force purchases to be made at prices which have been increased to respond to inflation, new production costs, and so forth. Multiple audit agencies deprive public higher education of effective fiscal, management, and program advice; and they are costly because of the inordinate amounts of staff time spent conforming to shifting or conflicting audit directives. No examples surfaced during the course of this study in which a university had done a complete management study to identify the costs imposed by state government fiscal regulations; but the examples of increased costs predict that such a study would persuade state officials that much state regulation thwarts its purpose of saving money.

Higher education administrators must approach this argument in good faith, however. Most discussions of costly regulations very quickly stray from purchasing, auditing, and so forth to the price tag attached to affirmative action rules, to regulations assuring access to handicapped persons, and to other policies whose purpose is not primarily fiscal. These complaints obscure the issues and are counterproductive. Universities, like other public and private institutions, will be required to pay the price for policies whose purposes are not primarily fiscal.

The motives of universities are called into question when they use cost justification to argue that they should be exempt from general societal policies. The argument against expensive regulations has force primarily as it applies to rules whose purpose is to save taxpayer money. Moreover, the argument against fiscal regulations cannot be persuasive unless universities are prepared to reduce their budgets by the costs allegedly imposed by those regulations. Universities might very well conclude that fiscal flexibility, subject of course to appropriate periodic post audits and proper self-administered procedures for purchasing goods and services, would allow them to reduce their budgets one percent or more. They should be fully prepared to return these savings to state government.

There is, third, a strong case to be made that wide delegations of authority are appropriate in higher education because of the elements of creativity and diversity in the missions of universities. At the simplest level, teaching styles differ widely. Some faculty are masters of the large lecture course. Others excel in small tutorials. Some who can scarcely speak before any group have a remarkable touch when working side-by-side with students in laboratories or studios. The rigid workload formulas and the peculiar categorization of classes by "mode of instruction" thwart reasonable recognition of the diversity of faculty skills, student learning needs, and academic subject matter.

Similarly, the talents of faculty vary widely. Some are superior teachers and deeply committed to that work. Others make an important contribution to scholarship, thus providing the materials for the teaching mission as well as developing the new and applied knowledge that eases fear and solves problems for society. Some faculty people have a remarkable ability to carry the knowledge developed in universities into other forums by working with public and private institutions in the surrounding community or in the nation.

If these suggestions about diverse faculty abilities and university missions are a commonplace for many, they have largely been lost in the structuring of the statutory higher education system in California. The CSUC Chancellor's Office in collaboration with the executive and legislative control agencies has built a series of workload formulas which circumscribe the effective use of varying faculty talents and which, perhaps more seriously, corrode the will and desire of universities to pursue their tripartite missions of teaching, scholarship, and service.

The prescription of "twelve weighted teaching units" for every faculty person prevents any substantial variations in workload to recognize special contributions to scholarship or community service. Perhaps more troubling, the creation of formulas which prescribe the size of certain types of classes thwart creative variations in teaching style. This has its greatest impact on the most heavily subscribed courses and programs, in which many sections of the same courses are offered. Under typical circumstances, all must be classified in the same way, creating the expectation and perhaps the rule (depending on which audit agency studies the enrollment patterns) that all sections in the same course matter must be taught in groups of the same size and in roughly the same format. It prevents an academic department or dean, for instance, from offering introductory political science in groups ranging from tutorial size to large lectures, according to the talents of particular faculty people.

Such workload measures also have implicit consequences. In some institutions the extent to which courses achieve their formula enrollments is taken as a measure of "productivity" and workload. A lecture course in Shakespeare may very well be undermined by this system; in periods when the number of English literature majors declines or in institutions with a strong technical or professional emphasis, erollments in courses on the Bard are likely to be low. The faculty person offering such courses may then be viewed as insufficiently productive, the course may be viewed as unwanted, and the decision can then be taken to offer the course only infrequently. Yet there is wide agreement among those who teach English that Shakespeare is an essential offering.

An even more pernicious consequence of workload formulas is the expectation created among the faculty. A workload of four courses of a certain size and proportion becomes the full definition of professorial performance. Not only are the scholarly and service missions eroded, because they cannot easily be fitted to such workload formulas, but the quality of instruction is implicitly sacrificed to quantitative "productivity," which can be measured in terms of courses, hours, and enrollments, and can be computer audited by control agencies. Finally, the quantitative specification of faculty workloads ignores the cyclical nature of human performance. It prevents a faculty person from concentrating on different kinds of contributions at different times in a career. Yet effective university performance depends on highly concentrated commitments that go well beyond a prescribed work week and which are, moreover, characterized by very intense periods of activity. In certain periods a faculty member may teach large numbers of students as he or she creates new courses, experiements with new teaching modes, develops new areas of specialization, or simply gives expression to new ideas, themes, or knowledge which have been slowly accumulating during a prior time of intensive scholarly study. The same cyclical interest and activity characterizes scholarship or service. Yet mandatory rigid formulas for classroom contact hours or student enrollments prevent the variation of faculty assignments to reflect differential commitments to teaching, research, and service.

These arguments about creativity and diversity must, however, be accompanied by a greater willingness than has generally been shown in higher education to find appropriate ways of expressing performance. The rigidity of workload formulas is partly a response to earlier abuses, in which teaching assignments were not closely monitored and in which license was taken in reducing work assignments of all kinds. The example is always present of reduced teaching loads for every faculty person in the major research universities to allow time to conduct scholarly work. Yet it is also easily demonstrated that in many departments a substantial minority (in a few cases even a majority) of the members have not maintained a vigorous scholarly program. The unwillingness of universities to manage themselves and to insist on integrity in the claims for flexibility to advance diverse goals has produced much of the momentum for detailed regulation of faculty activity.

In each aspect of university affairs similar examples could be given. The line item budget inhibits the effective deployment of funds to support special instructional needs or to build excellent programs. An important strategy of university administrators has been to make "investments" in programs or people with a high potential for excellence. Rigid formulas for funding or workload or space utilization make this stategy either discouragingly difficult or impossible. As a result, widely diverse kinds of activity necessary to promote quality programs tend to be supplanted by highly regularized, quantitatively measured, or closely prescribed activity.

This observation leads to a fourth substantial argument against the kind of extensive state regulation of higher education that has become a commonplace in the CSUC, that has been suggested for the University of California by control agencies and the Legislature, and which already exists in some measure in community colleges and is likely to become even more prevalent there as increased state funding makes them indistinguishable from other state agencies. Effective administration in higher education is difficult to sustain in a milieu of sweeping state regulation. Indeed, it may be implied in California that very little is expected from university administrators, since the scope and detail of state regulation is apparently intended to leave little discretion for governing boards, system executives, or campus administrators. Oddly, it is precisely in such circumstances that strong administration is needed. Faculty and students expect accommodation of the creative and diverse aspects of higher education, and campus administrators are therefore charged with the dual tasks of restraining such accommodations when they are plainly prohibited by state regulations and of identifying or devising ways in which activities apparently restricted can be supported by indirection.

University administration is very different in the constitutionally autonomous University of California and in the closely regulated California State University and Colleges. One difference is, of course, inherent in the Master Plan. As the state's research institution, the University of California has little difficulty recruiting high quality administrators on its various campuses. The State University and Colleges, on the other hand, would rarely be regarded as a prestige assignment for an ambitious university manager.

A second difference is more closely related to specific state regulations. The University of California has flexibility to set salaries at a competitive level. The CSUC salaries have long been subject to legislative restriction. Partly because of legislative distrust and partly to play to an appreciative faculty audience, state government has held down administrative salaries. In some years, for instance, state budget or supplementary language denied any pay increases to campus presidents and certain system administrators. During the 1978 legislative session, Assemblyman John Vasconcellos steered a provision through his Ways and Means subcommittee that would have limited administrative salaries to twice the amount of the lowest faculty salary; if it had been passed and applied literally, this provision would have set annual administrative wages at less than the academic year salaries of full professors.

Experience in the CSUC shows that candidates for deanships and vice presidencies often withdraw from consideration when they learn that low advertised salaries are not negotiable. The salary schedule for administrators, like that for faculty, is a rigid five-step structure. At the top level, the annualized monthly salaries of deans are the same as the monthly academic-year salaries paid to full professors. Not only are the wages not comparable with those in other universities, but the salary schedule permits no variation in such competitive fields as business or engineering and it does not recognize the different levels of responsibility borne by administrators of large campuses or schools and smaller ones.

While there is considerable administrative stability in the University of California, there is rampant instability in the CSUC. One staff person in the Chancellor's Office reported that the average service of deans in the system is about four years. An academic vice president entering his third year of service observed that he was rapidly approaching the mid-range in seniority among his colleagues on the nineteen campuses. Only part of this turnover is attributable to prestige and salary. The tight network of rules and regulations makes administration highly frustrating. Moreover, academic administrators find their hands tied in many areas, so that they cannot facilitate faculty and program needs. The imbalance between regulation and facilitation hurries them into conflict with faculty, and this conflict has been so persistent and endemic in the CSUC that it has hindered the development of quality programs.

High turnover and conflict take a toll on the instructional program. There is little continuity in policy as academic administrators change. There is much less collaboration between faculty and administration than would be desirable. Most CSUC campuses have never developed strong mechanisms for faculty consultation; and most faculties in the system have not been able effectively to develop patterns of responsibility and self-regulation because of inconstant relations with administration and because faculty leaders have found it difficult to give their attention to self-regulation while engaged in constant battles against state-imposed and administration-enforced rules.

Administrative turnover has probably resulted in too many new program starts as campus aspirations have been revised by successive presidents, vice presidents, and deans. At the same time, program quality has probably been stunted because there is little continuity of administrative support or commitment to programs begun under prior leadership. In short, the administration of CSUC campuses is deeply affected by the extensive state regulations. Resource management, program development, and faculty morale and responsibility are all adversely affected by the difficulty of recruiting and retaining able administrators and by the imbalance between rule enforcement and program facilitation in the work of campus managers.

It is not enough, however, to suggest that the pattern of state regulation that has been practiced in California increases the cost of education, erodes quality by restricting diversity and creativity, and weakens the internal governance of campuses. State officials must be persuaded that these adverse effects follow from a policy of regulation rather than delegation. As previously suggested, traditional academic leadership is poorly suited to do this. It often takes the attitude that higher education is "not just another state agency" and that state officials have no "right" to insist on accountability. Moreover, there is some truth to the sentiment among politicians that higher education is arrogant in its pretensions and manner. The claim of many faculty that their work is subject to no review, although rarely true in practice, is implausible and tends to rile those charged with levying taxes to support that work.

Academic leaders tend to be captives of faculty constituencies. They are more likely to be brought down by opposition from academic senates than from state senates. At least they can join the campus outcry when unpopular decisions are made by state officials; if they make such decisions themselves, it is difficult to point the finger elsewhere. In such a posure it is impolitic for academic administrators to balance the legitimate concerns of state officials for economy, effectiveness, and accountability in universities against the needs for flexibility, diversity, and creativity in conducting the tripartite missions of higher education. Most administrators are, moreover, selected for the wrong reasons--primarily acceptability to campus constituencies and for academic accomplishments.

What is probably needed in contemporary circumstances are academic leaders who understand in their guts as well as their heads the forces that drive state officials toward more regulation and who, at the same time, understand and distinguish between the needs and the pretensions of university faculties. They ought to be able to face both ways by explaining the needs of higher education and the devastating effects of excessive regulation to public officials without opposing reasonable processes of review and accountability that will assure state government of sound fiscal practices, program and faculty quality, and sufficient services to students and the community. This may require the will and ability to speak to the respective constituencies inside and outside the university rather than speaking for one of them.

It also implies a reversal of the trend of several decades that academic administrators do not and indeed are not entitled to manage institutions because that authority has been vested primarily in faculty bodies. The areas of faculty expertise--especially personnel evaluation and curriculum development--must be clearly delineated from administrative functions such as program review and resources management. Without such steps, of course, higher education cannot make a case that state government should refrain from extensive regulation because higher education administrators with broad delegations of authority can assure that institutions will meet policy goals set by state government.

Persuading public officials and the public generally that the quality and scope of higher eduation services will be enhanced by broad delegations to universities will require, in short, rather sweeping changes in the selection and the role of academic administrators. These changes must at least be supported and indeed may necessarily be instigated by higher education governing boards. The recent tendency in California to select Trustees and Regents who directly or indirectly represent the views of internal higher education constitutencies--such as students, faculty, and alumni--substantially diminishes the prospect that governing boards will initiate such changes in the role of academic administrators. The irony of this is that effective accountability of higher education to state officials through university administration is thwarted by the appointment decisions of those officials themselves.

Finally there is the question whether means can be found to hold public higher education accountable to the Executive and Legislature without the extensive regulations that have been imposed on the CSUC and which will be extended to the University of California if the shield of constitutional autonomy can be breached. It is appropriate at the outset to indicate sympathy with much of the suspicion directed toward evaluation systems that are used in elementary and secondary education as well as those often proposed for higher education. Most of these systems seem to evolve in quantitative directions. Either evaluation tends to emphasize those aspects of education which can be quantified--such as student/faculty ratios, faculty contact hours, and so forth--or it creates quantification where it should not be used, often by the assignment of arbitrary weights to qualitative, and therefore partly subjective, judgments.

Universities themselves have inadvertently spurred these trends. The spread of quantification in schools of education and in the social sciences has not been kept within reasonable bounds; the over-emphasis on computer and statistical tools has spawned scientism instead of science. These methods have been picked up by state control agencies, many staffed by young people trained in university programs that teach quantitative evaluation. Higher education should resist this kind of evaluation because it substantially distorts the goals of universities.

Beyond resistence to purely quantitative evaluation, however, universities have a poor record of devising alternative means by which they can be held accountable and of opposing reasonable, if imperfect, methods that have been suggested. The former point may be politically the more important. Nothing seems to provoke the suspicion of state officials as much as the insistence of universities that appropriate techniques have not been devised to assess the quality, effectiveness, and consequences of higher education programs. These assertions seem improbable coming from institutions which portray themselves as critics of society, whose departments and disciplines are deeply engaged in developing evaluation methods for other private and public organizations, and whose individual faculty sometimes command substantial consulting fees (not occasionally from state agencies) to serve as evaluators of public services.

Standing by itself, the assertion that universities, which have mounted massive research programs into most aspects of American life, do not know how to evaluate their programs in ways that can be explained to public officials and the public is a serious self-indictment. It puts the lie to university assertions that they are responsibly self-regulating. And it is an invitation for state agencies to use their own control devices, since it can hardly be asserted that public officials responsibly conduct their duties if they neither control nor evaluate expenditures of public money.

Opposition to plausible, if imperfect, evaluation techniques is frequent enough to feed the sentiment that universities are arrogant and irresponsible. In recent years state governments have forced most regulated professions to include public members on licensing and examining boards; university faculties mainly resist the service of nonuniversity members on faculty or administrative search committees and on program evaluation teams. The CSUC Trustees recently mandated program evaluation for the system's nineteen campuses, but faculty organizations on many of those campuses oppose the inclusion of faculty from outside the system on program review teams. Similarly, faculty organizations have opposed required external reviews of faculty credentials in tenure and promotion decisions. They were instrumental in obtaining passage of legislation denying confidentiality for outside evaluators. The University of California, by contrast, has used outside evaluations in promotion cases for many years; and as was previously indicated, it was preparing to litigate the constitutionality of legislation, lifting the confidentiality of evaluators, until recent legal interpretations gave the law a different and less restrictive meaning.

The continuing controversy over teaching evaluation is another pertinent example. University faculties have largely resisted the use of student evaluations, and an enormous debunking literature has grown up. At the same time, faculties have been reticent about peer visitation; and at the extremes it has been asserted that visitation is an infringement of academic freedom. Even after governing boards mandated some student evaluation, individual faculty members and some departments simply resisted the requirement or, alternatively, gave no weight to the information collected. Most faculty spokesmen are unable to specify the manner in which instructional effectiveness is being evaluated for purposes of tenure, promotion, and merit pay decisions. In such an environment it is not surprising that Assemblyman Vasconcellos and student lobbyists insist that publication and research is the sole real criterion being used and seek to displace undimensional evaluation with budget controls requiring that a certain number of faculty be hired, promoted, and salaried solely on the basis of teaching effectiveness.

A similar problem arises in explaining workload variations. It quickly becomes apparent in the University of California that teaching loads, measured by course contact hours, tend to become standardized within departments. This is, of course, contrary to assertions by higher education spokesmen that the diversity of talents of faculty and their varying interests over time require flexibility in teaching assignments. It also cannot be verified that all faculty are uniformly involved in the programs of research and service that justify substantially lower teaching loads in the UC than in the CSUC. Since there is little tendency for department chairs or deans to assign variable workloads based on the assessment of faculty interests, accomplishments, and activities, it is not at all odd that state officials deem uniform workload regualtions appropriate.

These examples could continue at some length. What they point out, however, is that in those areas of greatest visibility and concern to public officials and the public, universities simply cannot articulate the evaluation methods they have purportedly devised and/or adopted. Yet the willingness to specify and employ methods of self-evaluation that can be audited by state agencies is at the heart of any argument for the wide delegation of authority to universities. It is almost inconceivable that any other public agency would request that elected officials provide a budget and a program mandate and then would assert that state government should neither prescribe rules for the conduct of the program nor rigorously hold the program to an agreed set of objectives and methods for assessing the agency's accomplishment of those objectives. In the long run, as California well illustrates, higher education also cannot successfully adopt such a strategy.

In Perspective. California tends to lead national trends in many aspects of education, and the tendency toward extensive regulation which has been gaining strength for more than a decade is likely to be emulated elsewhere. The proliferation and sophistication of regulatory techniques in California are ready lessons for officials in other states. The causes of heightened regulatory activity--ranging from the application of New Deal ideas to public agencies, on the one hand, to the declining political base of higher education, on the other--are not unique to California, although political staffs, control agencies, and the ideological tone of politics are surely stronger there than elsewhere.

A strong case can be made that intensive state regulation of universities is counterproductive: it costs money, stifles creativity and diversity, defeats effective administration, and at its extremes intrudes upon academic freedom. But in California the other elements necessary to substitute a policy of delegation for one of ever-advancing regulation have not yet developed. Higher education leaders either survive by virtually becoming arms of state control agencies or oppose even the reasonable expectations of public officials that tax-supported higher education should be accountable. None of California's higher education systems have devised or adopted mission statements and evaluation techniques that will engender sufficient official and public confidence to sustain pleas for a special relationship between universities and state governments, turning on delegated authority and program accountability.

Highly tentative comments from a small number of politically perceptive leaders in the University of California suggest that slowly and incrementally such steps might be taken. The most highly regulated segment, The California State University and Colleges, does not yet have either the leadership or the strategy to seek such a special relationship with state government. The detailed regulation of the CSUC and its failure to devise an alternative relationship may be the most striking lessons of modern higher education politics in California.

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TABLE 1

FULL-TIME ENROLLMENT RANGES RECOMMENDED BY MASTER PLAN SURVEY TEAM

Type of Institution	Minimum	Optimum	Maximum
Junior colleges	400	3,500	6,000
State colleges:			
in densely populated areas in metropolitan centers	5,000	10,000	20,000
outside metropolitan centers	3,000	8,000	12,000
University campuses	5,000	12,500	27,500

Source: Master Plan Survey Team, A Master Plan for Higher Education in California 1960-1975 (Sacramento, State Board of Education, 1960), p. 17

TABLE 2

Public Higher Education Enrollments In California: 1961 - 1977

	Community Colleges (ADA/FTE)		CSUC (FTE)		University of California (FTE)		Total
	N	%	N	%			
1961-62	112,636[a]	46.5	76,820	31.7	52,961[b]	21.8	242,417
1966-67	262,865	55.0	129,905	27.2	85,453[b]	17.8	478,223
1971-72	552,208	64.4	204,224	23.8	101,026	11.8	857,458
1976-77	721,884	67.3	231,251	21.6	119,369	11.1	1,072,504
1977-78[c]	748,400	67.8	236,153	21.4	118,665	10.8	1,103,218

[a] Fall Term FTE

[b] Annual Average FTE

[c] Estimates by the Legislative Analyst, January, 1978

TABLE 3

Degrees Awarded by Segment: 1976 - 77

Degree	Independent Institutions		Public Institutions				All Institutions
			UC	CSUC	Total		
	N	%	N	N	N	%	
Bachelors	19,136	23.3	20,878	42,291	63,169	76.7	82,305
Masters	15,463	49.3	5,963	9,952	15,915	50.7	31,378
First Professional[a]	6,408	78.9	1,714	--	1,714	21.1	8,122
Doctorate	1,935	50.0	1,983	--	1,983	50.0	3,873

[a] First professional degrees in law, medicine, dentistry, optometry, vetinary medicine.

Source: California Postsecondary Education Commission, Postsecondary Education in California: Information Digest 1978 (Sacramento, 1979), pp. 139-143, 193-199.

TABLE 4

Financial Support for Public Higher Education
By Source: 1976 - 77
(in thousands of dollars)

	Community Colleges		CSUC		University of California	
	$	%	$	%	$	%
State Support	464,460	40.3	604,883	68.8	696,910	31.8
Local Support	539,000	46.7	--	--	--	--
Federal Support	90,000	7.8	72,214	8.2	883,882	40.3
Student Fees	18,500	1.6	85,478	9.7	118,566	5.4
Other[a]	41,047	3.6	117,050	13.3	493,500	22.5
Total	1,153,007	100.0	879,625	100.0	2,192,858	100.0

[a] Private gifts, grants, endowments, sales, etc.

TABLE 5

State Support of Public Higher Education In California As A Percentage of Total Support (in thousands of dollars)

	1966-67	1976-77
Community Colleges	30.3% ($232,000)	40.3% ($1,153,007)
CSUC	79.7% ($210,352)	68.8% ($879,625)
University of California	47.8% ($508,881)	31.8% ($2,192,858)
Total	50.1% ($951,233)	41.8% ($4,225,490)

Note: Amount in parentheses is total operating budget from all sources.

Footnotes

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37. For a summary of these opinions and their full citations, see Harold W. Horowitz, "The Autonomy of the University of California Under the State Constitution," *UCLA Law Review*, Vol. 25 (1977), p. 27.

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